

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CAPISTRANO UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011060748

ORDER GRANTING MOTION TO
DISMISS

On June 15, 2011, District filed a Request for Due Process Hearing (complaint) naming Student as the respondent. In the complaint, District seeks an order permitting it to assess Student pursuant to a May 10, 2011, assessment plan, which parent has not signed. On June 22, 2011, Student filed a Motion to Dismiss, requesting that District's complaint be dismissed because, in a September 8, 2010, Settlement Agreement and Release arising out of prior disputes between the parties, District released all claims against Student through the 2010-2011 school year, including 2011 extended school year. A copy of the Settlement Agreement is attached to Student's Motion to Dismiss. On June 28, 2011, District opposed the Motion to Dismiss, acknowledging the Settlement Agreement but contending that the claim in its complaint was not released. On June 29, 2011, Student filed a reply to District's opposition. As explained below, the Motion to Dismiss is granted.

APPLICABLE LAW

Parents or public agencies involved in educational decisions about a pupil have the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) This includes due process complaints initiated by school districts concerning lack of parental consent to assessments. (Ed. Code, § 56501, subd. (a)(3).)

In *Pedraza v. Alameda Unified Sch. Dist.* (D. Cal. 2007) 2007 U.S. Dist. LEXIS 26541 the United States District Court for the Northern District of California held that OAH has jurisdiction to adjudicate claims alleging denial of a free appropriate public education as a result of a violation of a mediated settlement agreement, as opposed to "merely a breach" of the mediated settlement agreement that should be addressed by the California Department of Education's compliance complaint procedure.

Settlement agreements are interpreted using the same rules that apply to interpretation of contracts. (*Vaillette v. Fireman's Fund Ins. Co.* (1993) 18 Cal.App.4th 680, 686, citing

Adams v. Johns-Manville Corp. (9th Cir. 1989) 876 F.2d 702, 704.) “Ordinarily, the words of the document are to be given their plain meaning and understood in their common sense; the parties' expressed objective intent, not their unexpressed subjective intent, governs.” (Id. at p. 686.) If a contract is ambiguous, i.e., susceptible to more than one interpretation, then extrinsic evidence may be used to interpret it. (*Pacific Gas & Electric Co. v. G. W. Thomas Drayage & Rigging Co.* (1968) 69 Cal.2d 33, 37-40.) Even if a contract appears to be unambiguous on its face, a party may offer relevant extrinsic evidence to demonstrate that the contract contains a latent ambiguity; however, to demonstrate an ambiguity, the contract must be “reasonably susceptible” to the interpretation offered by the party introducing extrinsic evidence. (*Dore v. Arnold Worldwide, Inc.* (2006) 39 Cal.4th 384, 391, 393.)

DISCUSSION

The September 8, 2010, Settlement Agreement and Release resolved two due process cases, one filed by District and one filed by Student. Paragraph B of the Agreement defined, as the “specified time period,” the time period through completion of the District’s Extended School Year 2011. The Settlement Agreement contained a General Release that stated

The Parties and their respective predecessors and successors in interest, heirs, assigns and trustees, hereby fully release and discharge each other, and each party’s respective predecessors and successors in interest, heirs, assigns, officers, directors, agents, employees, attorneys, representatives, partners, trustees and all members of the District Board of Education, both present and past, from any and all claims, demands, causes of action, damages, penalties and obligations of any kind – including but not limited to, compensatory education, attorneys’ fees, compliance issues and reimbursement – whether known or unknown, that they, and the above-mentioned predecessors and successors, may have against each other and each party’s respective above-mentioned predecessors and successors, pursuant to, without limitation, the Individuals with Disabilities Education Act, California Education Code sections 56500 et seq., Section 504 of the Rehabilitation Act of 1973, arising at any time through the specified time period, as defined in Paragraph B of this Agreement. The Parties expressly extend this waiver to include all claims within the jurisdiction of the Office of Administrative Hearings, the Office for Civil Rights, the California Department of Education, the District’s Board of Education, the Federal Department of Education, or any claims pursuant to any provisions of state or federal law, except for claims related to the implementation or enforcement of this Agreement.

Pursuant to the authority discussed above, OAH does not have jurisdiction to entertain District’s complaint, because the plain language of the Settlement Agreement releases the claim stated therein. District’s Opposition to Student’s Motion argues that its complaint, seeking declaratory relief regarding the right to assess, does not present “claims, demands, causes of action, damages, penalties and obligations of any kind.” This argument is without merit, as a complaint seeking the right to assess is clearly within the scope of the release language by which the Parties expressly “extend[ed] this waiver to include all claims

within the jurisdiction of the Office of Administrative Hearings, . . . or any claims pursuant to any provisions of state or federal law.” District’s Opposition secondarily argues that its complaint falls within the release’s exception for “claims related to the implementation or enforcement of this Agreement.” Student disputes that argument. Even if District is correct, OAH is nevertheless without jurisdiction to entertain a complaint seeking implementation or enforcement of a settlement agreement. Therefore Student’s Motion to Dismiss is granted.

ORDER

1. Student’s motion to dismiss is granted.
2. All dates are vacated and this matter will be closed.

Dated: June 29, 2011

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings