

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2011070630

ORDER GRANTING MOTION TO  
DISMISS

On July 19, 2011, Parents on behalf of Student (Student) filed a Request for Mediation and Due Process Hearing (complaint), naming the Capistrano Unified School District (District) as the respondent.

On October 18, 2011, District filed a Motion to Dismiss. OAH has not received a response from Student.

In the motion to dismiss, District seeks dismissal of the action on grounds that the parties have reached a settlement on September 26, 2011.

FACTUAL FINDINGS

Student filed his complaint on July 19, 2011. The parties attended a mediation session on September 26, 2011, which did not result in a settlement. Parties continued to negotiate following the mediation and reached a written settlement on September 26, 2011. The settlement was signed by both parties and was contingent only on approval by the District's Board of Education. On September 27, 2011, the District filed with the Office of Administrative Hearings (OAH) a Notice of Settlement Pending Board Approval. On October 7, 2011, District's counsel notified Student's representative (advocate) that the Board will review the settlement at its meeting on October 10, 2011.

On October 10, 2011, the advocate and Parents, by letter to District counsel, notified the District that they rescinded their signatures on grounds that the parties entered the agreement with the understanding that the District would contract with the Oak Grove School (where Student was attending) to pay Student's costs. The advocate avers that the agreement does not reflect the intent of the parties, and that the agreement should be set aside. The advocate also suggests that the settlement agreement be amended.

On October 10, 2011, the Board approved the settlement agreement. District counsel notified the advocate of the Board approval by email on October 11, 2011. The District filed this motion after Student refused to dismiss this matter as part of the settlement. The District also avers that OAH does not have jurisdiction to determine the validity of the settlement agreement itself.

#### APPLICABLE LAW

Parents 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).) OAH has jurisdiction to hear due process claims arising under the Individuals with Disabilities Education Act (IDEA). (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029 [hereafter *Wyner*].)

When a settlement agreement is voluntarily and willingly entered by the parties, it becomes a binding contract. (*D.R. v. East Brunswick Board of Education* (3rd Cir. 1997) 109 F.3d 896, 898) Here, the parties entered into a valid contract subject to the approval by the District’s Board. The agreement was final subject to the approval of the District Board. The agreement calls for the District to (1) reimburse Parents for “the various costs, fees, expenses, educational services and tuition provided to Student” as set forth in a schedule which was attached to the agreement; (2) fund Student’s tuition not to exceed \$205 per day of school attendance at the Oak Grove School, a nonpublic school (NPS) in Utah provided parents continue to reside within the boundaries of the District from October 1, 2011 through July 31, 2012; and (3) reimburse Parents in an amount not to exceed \$24,928 for the residential component of Student’s placement at Waterfall Canyon Academy, a NPS in Utah, provided parents reside within the District boundaries from October 1, 2011 through July 31, 2012. The agreement calls for Student to withdraw his complaint with prejudice within three business days following notification of the Board’s approval.

In *Student v. Modesto City Schools* (OAH Case Number N2007030782, May 17, 2007, at p. 3), OAH ruled that it did not have jurisdiction to enforce provisions of a final decision, which includes settlement agreements. OAH only has jurisdiction to adjudicate claims alleging a denial of a student’s right to a free appropriate public education (FAPE) as a result of a violation of a mediated settlement agreement. (*Pedraza v. Alameda Unified Sch. Dist.* (N.D. Cal. 2007) 2007 U.S. Dist. LEXIS 26541; *Parents v. Los Angeles Unified School Dist.* (OAH Case Number N2009010712, March 25, 2009, at p. 3)) Here, the issue is not whether there is a violation of a settlement agreement; the issue is whether or not the settlement agreement can be rescinded. Since OAH does not have jurisdiction to enforce a settlement agreement, it also lacks jurisdiction to set aside a settlement agreement. The proper forum for Student to set aside the agreement is a court of law.

**ORDER**

The District's Motion to Dismiss is GRANTED and OAH Case Number 2011070630 is hereby dismissed with prejudice.

IT IS SO ORDERED.

Dated: October 26, 2011

*/s/*

---

ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings