

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011091067

ORDER GRANTING MOTION TO
DISMISS

On October 13, 2011 District filed a motion to dismiss Student’s due process complaint on the grounds that Student’s claims are barred by a July 8, 2011 final settlement agreement and release (FSA), and therefore the Office of Administrative Hearings (OAH) has no jurisdiction to hear this matter. District’s motion is supported by a declaration under penalty of perjury and an authenticated copy of the FSA. Student, who is represented in this matter by his father’s law firm, did not file an opposition to the motion.

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); see also Ed. Code, § 56501, subd. (a).) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029 [hereafter *Wyner*].)

In *Pedraza v. Alameda Unified Sch. Dist.* (N.D.Cal., Mar. 27, 2007, No. C 05-04977 VRW) 2007 U.S. Dist. Lexis 26541, the United States District Court for the Northern District of California held that when the Student is alleging a denial of FAPE as a result of a violation of a settlement agreement, and not merely a breach of the settlement agreement, OAH has jurisdiction to adjudicate claims alleging denial of a free appropriate public education. According to the court in *Pedraza*, issues involving merely a breach of the settlement agreement 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

Student alleges in his complaint that District and Student’s parents agreed that District would fund a non-public school (NPS), presumably for the 2011-12 school year; that Student was not accepted at the NPS of his parents’ choice; and that Student’s parents located a “suitable” school that would accept Student, although it was not a certified NPS. Student asserts that District refused to reimburse Student’s parents for placement at Bridges Academy when no “suitable non-public alternative to Bridges Academy” exists. Student’s sole proposed remedy is reimbursement for tuition at Bridges Academy.

The FSA, an authenticated copy of which was provided by District but not mentioned in Student’s complaint, specifically provides in Paragraph 2 that Parents on behalf of Student expressly waive all claims relating to Student’s educational program through the last day of the 2011-2012 school year, with exceptions that are not relevant to the issues raised in this motion. Paragraph 3(a) provides that District and Parents will explore options for placement at a certified NPS for the 2011-2012 school year, and that, until or unless Student is enrolled in a certified NPS, Student’s placement shall be District’s Lanai Elementary School, with services, accommodations and modifications set forth in Student’s June 23, 2011 individualized education plan (IEP). The FSA includes a Mutual General Release and Discharge of all claims, except as relating to assessments in the Spring of 2012, through the last day of the 2011-2012 regular school year, including a waiver under Civil Code section 1542.

Here, Student is seeking in his complaint to reform the terms of the FSA by asking for an order that District should reimburse Parents for placement at a non-certified private school of their choosing. Paragraph 3(a) of the FSA is unambiguous that the parties agreed, under such circumstances, that Student’s alternative placement is Lanai Elementary School, not reimbursement for a non-certified private school of Parents’ choosing. More importantly, the FSA contains a prospective waiver of all claims against District relating to Student’s educational program until the end of the 2011-2012 school year.

As discussed above, OAH has no jurisdiction over straight contract issues such as reformation or rescission. Here Student’s complaint does not allege a denial of FAPE as a result of a violation of the FSA, and does not raise claims “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.” Accordingly, District’s motion must be granted.

ORDER

District's Motion to Dismiss Student's complaint is granted. The matter is dismissed.

Dated: October 26, 2011

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings