

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. 2013090722

ORDER OF DISMISSAL FOLLOWING  
PREHEARING CONFERENCE

On February 3, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Alexa J. Hohensee, Office of Administrative Hearings (OAH). Father appeared on behalf of Student. Dianna Massaria, Director of Litigation, appeared on behalf of the Los Angeles Unified School District (District). The PHC was recorded.

*Dismissal for Lack of Jurisdiction*

The District filed with OAH, and Father admitted at the PHC to entering into, a written settlement agreement dated November 15, 2013 (the Settlement Agreement), settling this matter. In the unredacted sections of the Settlement Agreement filed with OAH by the District, Student expressly (1) waived all claims through the date of the agreement, including all claims that were, or could have been, raised in this matter, and (2) agreed to dismiss this matter. Father has represented to OAH staff that he has not dismissed this matter because the District has not performed all of its obligations under the Settlement Agreement.

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*].)

This limited jurisdiction does not include jurisdiction over claims alleging a school district’s failure to comply with a settlement agreement. (*Id.* at p. 1030.) The *Wyner* court held that “the proper avenue to enforce SEHO orders” was the California Department of Education’s compliance complaint procedure (Cal. Code Regs., tit. 5, § 4600, et. seq.), and that “a subsequent due process hearing was not available to address . . . alleged noncompliance with the settlement agreement and SEHO order in a prior due process hearing.” (*Wyner, supra*, 223 F.3d at p. 1030.)

More recently, 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.

Student’s due process request (complaint) alleges claims through the filing date of September 20, 2013. The Settlement Agreement released all claims against the District through November 15, 2013. Because the plain language of the Settlement Agreement resolves all claims relating to Student’s complaint in this case, OAH is without jurisdiction to entertain these claims.

### **ORDER**

Student’s complaint in OAH Case No. 2013090722 is dismissed.

Dated: February 03, 2014

/s/

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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings