

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

UNION SCHOOL DISTRICT.

OAH CASE NO. 2011081094

ORDER GRANTING IN PART  
MOTION TO DISMISS

On August 25, 2011, Student filed a Request for a Due Process Hearing (complaint) against the Union School District (District). On September 6, 2011, the District filed a motion to dismiss, alleging that allegations in Student’s complaint that occurred on or before January 25, 2010, are barred by the terms of the parties’ January 25, 2010 Settlement Agreement (Settlement Agreement). The District also sought to dismiss several of Student’s proposed resolutions for being outside the jurisdiction of the Office of Administrative Hearings (OAH). Student did not submit a response.

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*].)

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.) In *Wyner*, during the course of a due process hearing the parties reached a settlement agreement in which the district agreed to provide certain services. The hearing officer ordered the parties to abide by the terms of the agreement. Two years later, the student initiated another due process hearing, and raised, inter alia, six issues as to the school district’s alleged failure to comply with the earlier settlement agreement. The California Special Education Hearing Office (SEHO), OAH’s predecessor in hearing IDEA due process cases, found that the issues pertaining to compliance with the earlier order were beyond its jurisdiction. This ruling was upheld on appeal. 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.* (N.D. Cal. 2007) 2007 WL 949603 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 (FAPE) 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

Student’s complaint alleges that the District denied him a FAPE during the 2009-2010 and 2010-2011 school years by failing to find him eligible for special education services and therefore not providing him with appropriate special education services. Student’s complaint includes 35 proposed resolutions, of which the District contends that numerous ones are outside the scope of OAH’s jurisdiction, such as attorney’s fees, placement in a non-certified private school and the employment of an outside case manager.

Student’s prior complaints, which were the subject of the Settlement Agreement, involved Student’s eligibility for special education services. The Settlement Agreement specifically provided that Student was not eligible for special education services under the Individuals with Disabilities Education Act, and that Parents, on behalf of Student, waived all claims against the District that occurred on or before January 25, 2010. Therefore, the District established that Student waived all claims against the District that occurred on or before January 25, 2010.

Regarding the District’s motion to dismiss several of Student’s proposed resolutions, the District’s request is premature as the appropriate time is either at the prehearing conference or at hearing if Student is still requesting proposed resolutions that the District contends are outside the scope of OAH’s jurisdiction.

ORDER

1. The District's Motion to Dismiss Student's claims that occurred on or before January 25, 2011, is granted.
2. The District's Motion to Dismiss Student's proposed resolutions is denied without prejudice.

Dated: September 12, 2011

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings