

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NATOMAS UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012090407

ORDER DENYING REQUEST TO  
REOPEN CASE

On September 12, 2012, Parent, on behalf of Student (Student) filed a request for due process (complaint). On September 19, 2012, at a resolution session, Student and Natomas Unified School District (District) executed a settlement agreement, and Student submitted a form to OAH entitled “Request by Party to Dismiss Due Process Hearing Request.” The reason for this request was that the parties had settled the case at a resolution session. Contained in this form, signed by Parent, is the statement, “I hereby request that the [OAH] dismiss this matter.” OAH issued an order dismissing the case on October 5, 2012.

On October 5, 2012, approximately two hours after the order of dismissal was issued by OAH, Student filed a request to reopen the case claiming that the District had not complied with the settlement agreement of September 19, 2012. No specifics were given as to the purported acts or omissions of the District that led to this claim by Student.

On October 9, 2012, the District filed a pleading entitled “Motion to Dismiss,” which is being construed as an opposition to Student’s request to reopen the case.

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*].) There is no special education statutory or case law governing the reopening of a case that has been voluntarily dismissed by a party.

OAH’s 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 school 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 claims alleging the school district's failure to comply with the earlier settlement agreement. The California Special Education Hearing Office (SEHO), OAH's predecessor in hearing IDEA due process cases, determined that the issues pertaining to compliance with the earlier order were beyond its jurisdiction, and 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, § 4650), 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, however, 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.

#### DISCUSSION AND ORDER

Although the District construed Student's request to reopen this case as a new complaint, OAH does not. The request to reopen the case is just that. This request does not claim that Student was denied a FAPE as a result of the District's alleged breach of the settlement agreement of September 19, 2012, nor does the request even discuss how the District purportedly breached the agreement. Further, OAH has no authority to reopen a case under these circumstances. Therefore, in accordance with established law discussed above, Student's request to reopen the case is denied.<sup>1</sup>

IT IS SO ORDERED.

Dated: October 10, 2012

/s/

---

REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings

---

<sup>1</sup> Nothing precludes Student from filing a new complaint concerning matters within OAH's jurisdiction.