

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2013090202

ORDER GRANTING MOTION TO
DISMISS

On September 3, 2013 Parents on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (complaint), naming the Irvine Unified School District (District) as the respondent.

On September 9, 2013, the District filed a Motion to Dismiss.

OAH has not received a response from Student.

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. (*Wyner, supra*, 223 F.3d 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.)

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.

In *Student v. Los Angeles Unified School District* (OAH Case Number 2009101071, Order granting District’s Motion to Dismiss Issue dated April 28, 2010, at p. 2.), OAH stated: “The IDEA and the Education Code unambiguously assign jurisdiction for disputes regarding settlement agreements to federal courts and state courts of competent jurisdiction.”

DISCUSSION

Student alleges in his complaint that the parties entered into a settlement agreement on April 26, 2012 (April 2012 Agreement) in order to resolve OAH Case Number 2012020834, which had been consolidated with OAH Case Number 2011100629. The April 2012 Agreement related to Student’s education through June 20, 2013. On June 7, 2013, Student’s Individualized Education Program (IEP) team convened the annual IEP meeting regarding the 2013-2014 school year. The IEP team presented a free appropriate public education (FAPE) offer to Student’s parents for 2013-2014, calling for changes in placement and services. Student’s parent consented to the goals and objectives and accommodations but did not consent to the placement and services offered.

On June 21, 2013, the District filed a complaint with OAH (Case number 2013080703) seeking an order that the June 7, 2013 FAPE offer was appropriate and enabling it to implement that IEP even without parental consent.

Student, in his complaint, raises a single issue: Whether the District breached the April 26, 2013 Settlement Agreement by filing a due process request with OAH in case number 2013080703. Student’s proposed resolutions are (1) that the District implement special education and services as stated in the stay put provision of the April 2012 Agreement along with the goals and objections and accommodations from the June 7, 2013 IEP, and (2) “[m]onetary damages for breach of contract in an amount to be determined at trial.”

Here, it is clear that Student is seeking to enforce the April 2012 Agreement. Pursuant to the authority discussed above, OAH does not have jurisdiction to entertain Student’s claim..

ORDER

The District's motion to dismiss is GRANTED. OAH Case No. 2013090202 is hereby dismissed.

IT IS SO ORDERED.

Dated: September 13, 2013

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings