

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2015090077

ORDER GRANTING MOTION TO  
DISMISS

On August 24, 2015, Student filed a request for due process hearing (complaint), naming Elk Grove Unified School District as the respondent.

On October 1, 2015, Elk Grove filed a motion to dismiss the case for lack of jurisdiction because the issues in the case involve the alleged breach of a settlement agreement between the parties which was executed outside of the mediation process, after a hearing was held in front of the Office of Administrative Hearings, but before a decision was rendered in that matter.

On October 6, 2015, Student filed an opposition to the motion to dismiss, stating that the claims raised in the complaint were for a denial of a free appropriate public education resulting from a breach of the settlement agreement, and, therefore, OAH had jurisdiction over the matter.

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.)

In *Pedraza v. Alameda Unified Sch. Dist.* (D. Cal. 2007) 2007 U.S. Dist. LEXIS 26541 (hereinafter *Pedraza*), the United States District Court for the Northern District of California recognized OAH's 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 that case, the settlement agreement intended that the placement set forth in the terms of the agreement would provide Student with FAPE.

## DISCUSSION

Student raises multiple claims against Elk Grove in his complaint, all stemming from the alleged breach of a settlement agreement between the parties. Student argues that under *Pedraza*, OAH has jurisdiction to hear these claims. For the reasons outlined below, Student's argument fails.

Student's claims hinge on his request for a determination that Elk Grove failed to adhere to the terms of the settlement agreement. Student argues that the breach of the settlement agreement terms alone results in a denial of FAPE. However, Student fails to allege that any of the terms of the agreement were specifically required to provide FAPE to Student and therefore, that the specific failures of the District, outside the failure to adhere to the settlement agreement, caused a denial of FAPE.

Student also did not establish that the intent of the agreement was to offer a FAPE to Student prospectively. The settlement agreement itself states that "[t]his agreement represents the collaborative compromise of disputed claims or causes of action as a way to resolve actual and potential litigation and to prevent further litigation." There is no indication anywhere in the settlement that the terms agreed to were designed to provide FAPE to Student. The settlement further states that Student released and discharged Elk Grove from the provision of FAPE during the term of the agreement.

Student's reliance on *Pedraza* is misplaced. The evidence shows that the terms of the settlement were not intended to constitute a FAPE for Student. Settlements often include terms that are meant as compensatory services or are otherwise agreed to as part of a compromise. In *Pedraza* the fact that the intent of the parties was that the terms of the

agreement constituted a FAPE was a critical part of the analysis and is not present in this case. Therefore, the *Pedraza* exception does not apply in this case.

The complaint is not a complaint asking OAH to make findings regarding the provision of FAPE to Student or regarding failures to follow the procedural requirements of the IDEA. Instead, the complaint asks OAH to find a breach of the agreement and argues that the breach of the agreement alone is what denies Student a FAPE. The complaint asks that OAH order compliance with the agreement and other damages flowing from the alleged breach. Under *Wyner*, OAH does not have jurisdiction for these claims.

Pursuant to the authority discussed above, OAH does not have jurisdiction to entertain these claims, the matter is dismissed.

### **ORDER**

Elk Grove's motion to dismiss is GRANTED and OAH Case No. 2015090077 is dismissed.

IT IS SO ORDERED.

DATE: October 8, 2015

/s/

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MARGARET BROUSSARD  
Presiding Administrative Law Judge  
Office of Administrative Hearings