

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN BERNARDINO CITY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2013090934

ORDER GRANTING MOTION TO
DISMISS ISSUE 2

On September 26, 2013, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH), naming the San Bernardino City Unified School District (District). On October 2, 2013, the District filed a Motion to Dismiss Issue 2 for being barred pursuant to the parties' February 19, 2013 Interim Settlement Agreement (ISA). 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*].)

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

In the present matter, the District contends that the parties reached an ISA in OAH Case No. 2013020241, which resolved issues regarding assessments that the District conducted or should have conducted through the date of the ISA, February 19, 2013. Issue 2 in the present complaint contains the same allegations against the District as in Issue 2 in OAH Case No. 2013020241. The language in the ISA establishes that the parties resolved any issues regarding the District's assessments, or lack thereof, through February 19, 2013. Accordingly, Issue 2 is dismissed as being barred by the parties' ISA in OAH Case No. 2013020241.

ORDER

The District's Motion to Dismiss is granted as to Issue 2. The matter will proceed as scheduled as to the remaining issue.

Dated: October 21, 2013

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings