

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015090552

ORDER GRANTING, IN PART, AND
DENYING, IN PART, DISTRICT'S
MOTION TO DISMISS

On September 18, 2015, District filed a motion to dismiss Issue 13 and Issue 14 of Student's complaint. Student has not filed opposition to the motion. As discussed below, the motion is granted in part as to Issue 14, and denied in part as to Issue 13.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education" (FAPE), and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has 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) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) 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.)

DISCUSSION

In Issue 13, Student generally alleges that District failed to implement various terms of the July 2014 settlement agreement and, as such, Student did not receive the benefits from the agreement for which Parents bargained. District seeks dismissal of Issue 13 because Parents signed a release and waiver on a July 29, 2014, as part of a due process settlement agreement, which waived any and all educationally based claims, demands, action or causes of action of every kind and character, known or unknown, arising out of Student's education through February 25, 2015. District argues that the alleged failures to implement – and any denial of FAPE resulting therefrom – occurred before February 25, 2015; District therefore

asserts any claims thereon are barred by the July 2014 settlement agreement waiver and must be dismissed.

District's motion to dismiss Issue 13 is denied. The language of the release contained in the settlement agreement specifically exempts from the released claims the obligations set forth in the settlement agreement itself, and thus does not cover failures to implement it. (See Release's definition of Released Claims, "other than those expressly set forth herein.") The Section 1542 waiver generally releasing known or unknown claims only covers known or unknown claims that exist "at the time of executing the release," and thus cannot cover known or unknown claims that had not yet occurred, such as the alleged failures to implement the settlement itself. Therefore, District's request to dismiss Issue 13 is denied.

In Issue 14, Student seeks relief due to violations of Section 504 of the Rehabilitation Act (29 U.S.C. § 794). These assertions are facially outside of OAH jurisdiction, which is limited to the IDEA. District's motion to dismiss Issue 14 is granted.

ORDER

1. District's Motion to Dismiss Issue 13 of the complaint is denied.
2. District's Motion to Dismiss Issue 14 of the complaint is granted.

Dated: October 02, 2015

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings