

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

GLENDORA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020011057

ORDER GRANTING MOTION TO DISMISS AMENDED
COMPLAINT BASED UPON SETTLEMENT AGREEMENT

FEBRUARY 24, 2020

On January 28, 2020, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Glendora Unified School District, referred to as Glendora Unified. The Request for Due Process is referred to as a Complaint. The Office of Administrative Hearings is referred to as OAH.

On February 7, 2020, Glendora Unified filed a response to Student's Complaint. On February 11, 2020, Student filed an Amended Complaint. On February 12, 2020, Glendora Unified filed a Motion to Dismiss the Amended Complaint. On February 19, 2020, Student filed an Opposition to the Motion to Dismiss. On February 21, 2020, Glendora Unified filed a response to Student's Amended Complaint. OAH did not rule

on Student's Motion to Amend its Complaint prior to the filing of Glendora Unified's Motion to Dismiss.

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. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

This limited jurisdiction does not include claims alleging a school district's failure to comply with a settlement agreement. (*Id.* at p. 1030.) In the *Wyner* case, the parties reached a settlement agreement in which the district agreed to provide certain services during the course of a due process hearing. The hearing officer ordered the parties to abide by the terms of the agreement. Two years later, the student filed another due process hearing alleging the district did not comply with the settlement agreement in the first case. A hearing officer determined that the issues alleging the failure to comply with the settlement agreement in the first case were beyond its jurisdiction. This ruling was upheld on appeal. The decision in *Wyner* held that "the proper avenue to enforce Special Education Hearing Office 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 Special Education Hearing Office order in a prior due process hearing." (*Wyner, supra*, 223 F.3d at p. 1030.)

More recently, in *Pedraza v. Alameda Unified School Dist.* (N.D. Cal. 2007, No. C 05-04977 VRW) 2007 WL 949603), the District Court held that OAH has jurisdiction to adjudicate claims that allege a student was denied a free appropriate public education as a result of the violation of a mediated settlement agreement. However, a breach of a mediated settlement agreement should be addressed by the California Department of Education's compliance complaint procedure.

DISCUSSION

Student raises three claims against Glendora Unified in the Amended Due Process Complaint. First, Student alleges that the parties' signed January 6, 2020 settlement agreement, referred to as the Settlement Agreement, should be found void based upon undue influence. Second, Student contends that Students' parents entered into the agreement under duress and therefore the Settlement Agreement should be voided. Third, Student alleges that Glendora Unified breached the implied covenant of good faith and fair dealing in encouraging Parents to sign the Settlement Agreement.

By way of background, this dispute concerns a change of educational placement for Student. Based upon the pleadings, the underlying facts are largely undisputed. According to the pleadings, at the beginning of the 2019-2020 school year Student attended a nonpublic school pursuant to the last signed and implemented individualized education program, referred to an IEP. On October 30, 2019, Glendora Unified convened an IEP team meeting to address Parents' concerns about Student's safety at the non-public school. At the IEP team meeting the non-public school provided a 20-day notice to Glendora Unified pursuant to Education Code section 56366(a)(4) terminating Student's individual service agreement at the non-public school.

Thereafter, Glendora Unified and Parents worked to locate an alternative educational placement for Student, and Parents rejected Glendora Unified's offer of an interim administrative placement at another non-public school. It is not in dispute that on January 6, 2020, the parties signed the Settlement Agreement and release of claims pursuant to which Glendora Unified agreed to provide applied behavior analysis services through the Center for Autism and Related Disorders while Student was being considered and accepted for placement at an alternative non-public school selected and agreed to by the parties. The Settlement Agreement contains a broad release of educational claims from, "the date this Agreement is fully executed through and including the date on which [non-public school] notifies District of its decision whether or not to accept Student." The Settlement Agreement also contains a waiver of claims under Section 1542 of the California Civil Code.

The alternative non-public school agreed upon by the parties notified Glendora Unified on February 4, 2020, that Student was accepted into its program. Glendora Unified's Motion to Dismiss requests the Amended Complaint be dismissed because it seeks a remedy for claims against Glendora Unified released under the express terms of the Settlement Agreement. Student's Amended Complaint acknowledges that the parties entered into the Settlement Agreement, but argues that Student should be released from the terms of the agreement on the basis it was entered into by Parents based through undue influence and duress, and further that Glendora Unified breached the implied covenant of good faith and fair dealing in its conduct with Parents regarding the Settlement Agreement. If Parents seek to set aside the Settlement Agreement, they need to go federal or state court. (*Y.G. v. Riverside Unified Sch. Dist.* (C.D. Cal., Feb 28, 2011, No. EDCV 10-1002 CAS (OPx).) 2011 WL 791331, *5)

OAH has does not have jurisdiction over the claims alleged in the Complaint on the basis the fully-executed Settlement Agreement bars all of Student's educational claims, including those arising under the Individuals with Disabilities Act and the California Education Code, through and including the date the alternative non-public school notified Glendora Unified of its decision whether to accept Student. According to Glendora Unified's Motion to Dismiss, it was notified on February 4, 2020, of Student's acceptance into the alternative non-public school selected and agreed upon by the parties. Accordingly, based upon the terms of the Settlement Agreement, OAH does not have jurisdiction over any educational claims by Student against Glendora Unified that arose prior to February 4, 2020. To the extent Student has a remedy against Glendora Unified based upon the enforceability or non-compliance with the Settlement Agreement, the appropriate method to pursue such claim is through the California Department of Education's compliance complaint procedure. (Cal. Code Regs., tit. 5, § 4600, et. seq.).

ORDER

OAH Case Number 2020011057 is dismissed.

IT IS SO ORDERED.

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings