

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

IQ ACADEMIES OF CALIFORNIA - LOS ANGELES.

OAH CASE NUMBER 2020040606

ORDER GRANTING MOTION TO DISMISS

MAY 01, 2020

On April 20, 2020, Parent on behalf of Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming IQ Academy of California – Los Angeles, referred to as IQ Academy. The Office of Administrative Hearings is referred to as OAH.

On April 29, 2020, IQ Academy filed a motion to dismiss alleging OAH lacks jurisdiction to adjudicate certain issues alleged in the complaint. On May 1, 2020, Student filed an opposition to IQ Academy's motion to dismiss.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education,” 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 free appropriate public education 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 School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

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.* (N.D.Cal., Mar. 27, 2007, No. C 05-04977 VRW) 2007 WL 949603, the United States District Court for the Northern District of California held that when the Student is alleging a denial of FAPE as a result of a violation of a settlement agreement, and not merely a breach of the settlement agreement, OAH has jurisdiction to adjudicate claims alleging denial of a free appropriate public education. According to the court in *Pedraza*, issues involving merely a breach of the settlement agreement should be addressed by the California Department of Education’s compliance complaint procedure.

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

On March 2, 2020, OAH dismissed a complaint filed by Student against IQ Academy in OAH Case Number 2020010388. OAH determined that each of the three issues alleged by Student in the complaint was barred by the terms of the October 2019 settlement agreement and mutual general release of claims fully executed the parties. The parties agreed the release precluded any party from initiating any actions or proceedings, including claims under IDEA, arising from or related to Student’s educational program through May 20, 2020 or Student’s Annual/Triennial IEP.

Here, Student filed his due process complaint on April 20, 2020, one month before expiration of the settlement agreement’s preclusion timeline. The complaint is therefore untimely and on this basis dismissal is warranted.

In addition, the allegations of the complaint do not relate to the identification, evaluation, or educational placement of Student, or the provision of a free appropriate public education to Student. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) The complaint alleges that IQ Academy improperly tracked Student’s school attendance.

This issue does not fall within OAH's limited jurisdiction. For this additional reason, dismissal is appropriate.

ORDER

1. IQ Academy' motion to dismiss is granted.
2. All presently scheduled dates are vacated.
3. Student's complaint is dismissed.

IT IS SO ORDERED.

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings