

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAMBRIAN SCHOOL DISTRICT.

OAH Case No. 2014090680

ORDER FOLLOWING PREHEARING
CONFERENCE DISMISSING CASE
FOR LACK OF JURISDICTION

On September 17, 2014, Student filed a Request for Due Process and Mediation (complaint) with the Office of Administrative Hearings, naming Cambrian School District as the respondent. On September 29, 2014, Cambrian filed a motion to dismiss Student's complaint, alleging that the claims were barred by an August 12, 2013 settlement agreement between Cambrian and Student. Student filed an opposition to Cambrian's motion on October 1, 2014. On October 3, 2014, Office of Administrative Hearings issued an order denying Cambrian's motion to dismiss without prejudice and bifurcating the issues listed in the complaint.

In that order, the administrative law judge determined that the preliminary issue that needed to be addressed at a due process hearing was whether Cambrian violated section 3(d) of the settlement agreement of August 12, 2013, by its refusal to hold an individualized education program team meeting. Subsequently, at the prehearing conference (PHC) in this case, ALJ Theresa Ravandi reworded the issue for clarity, finding the preliminary issue to be, "Whether an unforeseen and significant change has occurred in Student's circumstances resulting in a dramatic change in Student's educational needs, as outlined in section 3(d) of the Settlement Agreement of August 12, 2013."

On February 3, 2015, the undersigned raised the issue of jurisdiction sua sponte. On February 4, 2015, at a telephonic PHC, the parties argued their respective positions as to whether OAH has jurisdiction to decide the preliminary issue. That same day, Student filed a supplemental briefing addressing the cases raised by Cambrian during its oral argument at February 3, 2015, PHC. Cambrian did not respond to Student's supplemental brief.

STATEMENT OF FACTS

In October 2011, Student filed a complaint against Cambrian, alleging that Cambrian denied Student a free appropriate public education. On August 12, 2013, the parties entered

into a settlement agreement.¹ The terms of the settlement agreement provided that Cambrian reimburse Parents for a portion of the cost of the unilateral placement of Student at a private school. In exchange for the partial reimbursement, Student agreed to dismiss his claim against Cambrian and agreed to release Cambrian from all education and related unforeseen or unknown claims, from the beginning of the 2013-2014 school year until the first student attendance day of the 2015-2016 school year.

In section 3(d) of the settlement agreement, the parties agreed that the waivers outlined in the agreement “would not apply in the event of an unforeseen, significant change in Student’s circumstances resulting in a dramatic change in Student’s educational needs; for example, if Student were to sustain a traumatic brain injury TBI.” The settlement agreement specified that the parties, “disagree regarding special education program, placement, series and Free Appropriate Public Education (FAPE) for Student” and that the parties were forming the agreement because they “wish to avoid additional formal proceedings concerning any education and related claims the term of [the] agreement.”

Student’s complaint in this matter alleges a denial of a free appropriate public education from July 31, 2014 through the 2014-2015 school year. Cambrian contends that Student’s claim is barred from asserting such claim by the terms of the settlement agreement. Student contends that the settlement agreement is void because Student’s change of circumstances triggered section 3(d) of the settlement agreement. Student argues that a new diagnosis of Student by Dr. Bernou in June 2014 constitutes an unforeseen and significant change in Student’s circumstances.

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.)

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 Individuals with Disabilities Education Act due

¹ Cambrian included a copy of said settlement agreement with its Motion to Dismiss.

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 a limited exception to *Wyner*, in *Pedraza v. Alameda Unified Sch. Dist.* (N.D. Cal. 2007) 2007 WL 949603, the United States District Court for the Northern District of California held that OAH has jurisdiction to adjudicate claims alleging a denial of a free appropriate public education, as opposed to “merely a breach” of a mediated settlement agreement. However, the Court in *Pedraza* based its decision the fact that the parties acknowledged in their mediated settlement agreement that the placement and services set forth in the settlement agreement constituted a FAPE.

Additionally, OAH does not have the authority to void or modify the parties’ previous agreements. (*Y.G. v. Riverside Unified Sch. Dist.* (C.D. Cal. 2011) 2011 WL 791331, *5.)

DISCUSSION

Cambrian asserts that the Agreement between the parties bars Student’s claims against it. Student contends that enforcement of the Agreement would deny him a FAPE, and that OAH should find the settlement agreement null and void because Student’s circumstances had significantly changed, resulting in a dramatic change to Student’s needs. In essence, Student is requesting that OAH void the settlement agreement by interpreting and enforcing clause 3(d) of the settlement agreement. The issue, which Student wishes to have OAH decide falls outside the scope of OAH’s jurisdiction as OAH does not have the authority to void or modify the parties’ agreement. (*Y.G. v. Riverside Unified Sch. Dist.* (C.D. Cal. 2011) 2011 WL 791331, *5.)

Student’s argument that OAH has jurisdiction to decide this issue under the limited exception of *Pedraza* is unpersuasive. Although Student has alleged a denial of FAPE in this case, the facts set forth in *Pedraza* are distinguishable for the case at hand. In *Pedraza*, the parties specifically acknowledged that the placement and services set forth in the settlement agreement constituted a FAPE for the student. In this case, the settlement agreement specified that parties did not agree that placement and services contained in the settlement agreement constituted FAPE. Merely alleging that enforcement of the waiver and release clauses of a settlement agreement would cause a violation of FAPE is not sufficient to provide OAH with jurisdiction to decide the matter. Therefore, this case does not fall under the limited exception outlined by the Court in *Pedraza*.

Whether the issue in this case is characterized as Student’s desire to have the settlement agreement enforced or Student’s desire to have the settlement agreement be found

null and void, the determination of jurisdiction remains the same. Under both *Wyner* and *Y.G.*, OAH does not have the authority to enforce, void, or modify settlement agreements. Accordingly, OAH does not have jurisdiction to hear Student's complaint.

ORDER

The case is dismissed and all dates are vacated.

Dated: February 20, 2015

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings