

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021070569

ORDER DENYING MOTION TO DISMISS BASED UPON
SETTLEMENT AGREEMENT

AUGUST 12, 2021

On July 15, 2021, Student filed a request for due process hearing with the Office of Administrative Hearings, naming San Francisco Unified School District. The request for due process hearing is referred to as a complaint. The Office of Administrative Hearings is referred to as OAH.

On August 6, 2021, San Francisco filed a motion to dismiss. On August 10, 2021, Student filed an opposition.

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.)

San Francisco asserts that Student's claims are barred by a settlement agreement. In support of its motion to dismiss, San Francisco submits the declaration of San Francisco's counsel and exhibits, including a copy of the settlement agreement. Student opposes, by explaining that the claims alleged are post-agreement.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction such as, civil rights claims, section 504 claims, or incorrect parties, special education law does not provide for a summary judgment procedure. Here, the motion to dismiss is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on San Francisco's affirmative defense that Student's claims are barred by an agreement. Accordingly, the motion to dismiss is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

Alexa Hohensee

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Administrative Law Judge

Office of Administrative Hearings