

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LIBERTY UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024050133

ORDER GRANTING MOTION TO DISMISS STUDENT'S
COMPLAINT, IN PART, BASED UPON SETTLEMENT
AGREEMENT

JUNE 5, 2024

On May 2, 2024, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Liberty Union High School District. The Request for Due Process is referred to as a Complaint. The Office of Administrative Hearings is referred to as OAH.

On May 28, 2024, Liberty filed a Motion to Dismiss Student's Complaint, In Part, specifically, Student's Issues 1, 2, 3, 4, and 9, insofar as they state claims prior to August 10, 2023. On May 30, 2024, Student filed an opposition, in part, requesting OAH to

deny Liberty's motion to dismiss as to Issues 1, 2, 3, 4, and 9, to the extent those issues raise claims from August 10 through May 2, 2024.

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.)

DISCUSSION

Liberty's Motion to Dismiss attached a redacted copy of the settlement agreement. Liberty's Motion to Dismiss and Student's opposition were supported by sworn declarations establishing the parties' agreement that Liberty and Student entered into a settlement agreement effective August 9, 2023, whereby Student waived claims through August 9, 2023. Student's complaint, however, as clarified by Student's Notice of Errata, filed May 22, 2024, contains Issues 1, 2, 3, 4, and 9, which allege Liberty denied Student a FAPE during the 2023-2024 School year. Student's complaint states the effective date of the settlement agreement to be July 28, 2023, and Student's Issues 1, 2, 3, 4, and 9 assert claims from July 28, 2023.

Liberty's Motion to Dismiss, and Student's response, request OAH to limit Student's Issues 1, 2, 3, 4, and 9, to the timeframe from August 10, 2023, to May 2, 2024, the date Student filed the complaint, based on the settlement agreement. To the extent that Student's complaint asserts claims from July 27, 2023, through August 9, 2023, Liberty's motion to dismiss Issues 1, 2, 3, 4, and 9, is granted, based on the settlement agreement and Student's sworn declaration.

ORDER

1. Liberty's Motion to Dismiss Issues 1, 2, 3, 4, and 9 is granted in part.
2. Student's Issues 1, 2, 3, 4, and 9, remain as to claims for the 2023-2024 school year, from August 10, 2023, to May 2, 2024.
3. Student's Issues 1, 2, 3, 4, and 9, as to claims prior to August 10, 2023, are dismissed.

4. All other issues on Student's complaint remain as stated.

Rita Defilippis

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Administrative Law Judge

Office of Administrative Hearings