BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

GUADALUPE UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2021010198

ORDER GRANTING MOTION TO LIMIT ISSUES

JANUARY 29, 2021

On January 8, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Guadalupe Union School District. The Office or Administrative Hearings is referred to as OAH.

On January 25, 2021, Guadalupe filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate certain issues alleged in the complaint. Student did not respond to Guadalupe's motion.

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.

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.)

OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code, the Americans with Disability Act (42 U.S.C. §§ 1201, et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51).

DISCUSSION

Guadalupe filed a motion to dismiss any and all allegations raised prior to May 12, 2020, and any and all claims, allegations, and proposed relief related to violations of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., the Equal Educational Opportunities Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, under the Civil Rights Act of 1871, 42 U.S.C. § 1983, the

California Tort Claims Act, and the Civil Rights Attorney's Fees Award Act of 1976, 42 U.S.C. § 1988.

Student begins his complaint with a list of tort claims alleged against Guadalupe. However, in the issues specified in the claims for relief section Student only lists claims arising under the Individuals with Disabilities Education Act. To the extent that Student was attempting to raise the tort claims listed at the beginning of the complaint, those are dismissed. Student is limited to the issues raised in the claims for relief section of the complaint in paragraphs 69 through 75.

Although Guadalupe did not include as an exhibit to its motion the settlement agreement, both parties acknowledge they entered into a settlement agreement on May 12, 2020. Student's facts section of the complaint is 15 pages and includes information as far back as 2010. However, as part of the facts section Student acknowledges the May 12, 2020 settlement agreement and specifically states he is not asking OAH to enforce the settlement agreement but rather raising new claims that arose after the settlement agreement. Student did not, however, identify a specific timeframe when listing the issues in the claims for relief section. To the extent that Student was attempting to raise issues prior to May 12, 2020, those are dismissed. Student is limited to issues arising after May 12, 2020.

ORDER

1. Guadalupe's Motion to Limit the Issues is granted.

2. Student is limited to the issues raised in the claims for relief section of the complaint in paragraphs 69 through 75, and the issues are limited to after May 12, 2020.

IT IS SO ORDERED.

Linda Johnson

Linda Johnson

Administrative Law Judge

Office of Administrative Hearings