BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: SACRAMENTO CITY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017100702 ORDER DENYING MOTION TO ENTER JUDGMENT

PROCEDURAL BACKGROUND

On October 17, 2017, Sacramento City Unified School District filed a request for due process hearing, seeking an order that the offer of special education and related services it made to Student in the May 25, 2017 Individual Education Program (IEP) offered Student a free, appropriate public education in the least restrictive environment. On November 15, 2017, Sacramento City issued a settlement proposal to Student pursuant to United States Code, tit. 20, section 1415(i)(3)(D) (a "10 day offer") informing Student that he had ten days to respond to the offer. The settlement proposal terms were stated to be, "In consideration for a release and waiver of all claims against the District associated with OAH Case No 2017100702" and enumerated the terms as follows:

1. District will reimburse Parents for educational services privately obtained for Student not to exceed $6,600 according to proof for school tuition, speech and language therapy, occupational therapy behavioral therapy social skills instruction and/or tutoring;

2. District will schedule an IEP team meeting within 30 days;

3. District will provide staff training regarding the underlying legal issues in the case.

4. District will reimburse Student for reasonable attorney fees incurred prior to the date of the offer.

The offer went on to state that, "if the offer is accepted the District will draft a final settlement agreement incorporating all of the above terms, including waivers of all educational claims associated with OAH Case No. 2017100702." The language of the offer clearly considered execution of a settlement agreement setting forth agreed waivers to be an

essential part of the consideration for the proposed settlement from Sacramento City's perspective.

On November 20, 2017, Student informed Sacramento City that he would accept the offer. Discussions regarding the terms to be included in the settlement agreement ensued. The parties were ultimately unable to reach agreement as to how the terms of a settlement agreement reflecting the settlement proposal should be worded.

On December 4, 2017, Student filed a motion to enter judgment in the case on the grounds that Student had accepted Sacramento City's 10 day offer and that Rule 68 of the Federal Rule of Civil Procedure mandated entry of judgment on the terms offered. On December 8, 2017, Sacramento City opposed the motion, arguing that there was no meeting of the minds and that Rule 68 did not apply.

LEGAL ANALYSIS

Rule 68 of the Federal Rules of Civil Procedure Does Not Apply

Student argues that he is entitled to entry of judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure. (Rule 68). Rule 68 regarding offers of settlement to limit future attorney fees and/or form the basis for entry of judgment, does not apply in this case. This rule has limited application in administrative actions under the Individuals with Disabilities in Education Act (IDEA) (20 U.S.C. 1415 (i)((3)(D)(1).)

The pertinent IDEA code section references Rule 68 only in the context of denoting the timing of a settlement offer to cut off future attorney fees if the matter is not an administrative proceeding. (20 U.S.C. 1415 (i)((3)(D)(1).) In the case of an administrative proceeding, the offer must be made more than 10 days before the proceeding (as opposed to 14 days in Rule 68), thus the appellation "10 day offer." Rule 68 only applies if the settlement offer is made when a case is in federal court rather than an administrative forum.

The parties in this case were engaged in an offer to settle governed by section 1415 (i)(3)(D) of tit. 20 of the United States Code. That statute provides a procedure by which a party can make an offer of settlement in an administrative proceeding, at any time 10 days prior to the date of hearing, giving the opposition 10 days to accept the offer. If the offer is not accepted, the offering party has a basis in a subsequent attorney fee action to argue that fees should be limited if the party who did not accept the offer failed to obtain more favorable relief than was stated in the 10 day offer to settle. There is no provision in the statute or its implementing regulation for entry of judgment after acceptance of the offer. (20 U.S.C. 1415 (i)((3)(D)(1); 34 C.F.R. 300.518.) Student has offered no authority that would form the basis for OAH entering judgment in this case pursuant to Rule 68, pursuant to section 1415 (i)(3)(D) of tit. 20 of the United States Code or pursuant to any other law.

Entry of Judgment Would Not Be Appropriate as No Settlement Exists

Even if authority had been cited allowing OAH to enter judgment in this case, Student has not demonstrated that the case was settled. No evidence of a signed settlement agreement or final agreement as to terms has been submitted and, in fact, Student admits that finality of terms had not been achieved. The offer is predicated upon the parties agreeing to the reduction of the agreed terms to a settlement document. Student has not precisely stated the terms on which judgment could be entered; nor has he even demonstrated that a meeting of the minds has occurred.

ORDER

Student's Request for Entry of Judgment is DENIED. All dates on calendar shall proceed as previously ordered.

DATE: December 11, 2017

DocuSigned by:
Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings