



CLIENT NEWS BRIEF

March 2011

Number 9

OAH RETAINS JURISDICTION OVER DISPUTES REGARDING INFORMAL IDEA SETTLEMENT AGREEMENTS

The jurisdiction of the Office of Administrative Hearings (“OAH”) was recently expanded to include review of settlement agreements that have not been formalized in final administrative orders. In Student v. Upland Unified School District and West End SELPA (2011) OAH Case No. 2007120214, OAH exercised authority to review an informal settlement agreement after a district court directed it to do so upon remand. This case is significant in that it changes the commonly held belief that Individuals with Disabilities Education Act (“IDEA”) settlement agreements may not be reviewed and enforced in OAH proceedings. OAH may now review and enforce settlement agreements as long as the agreement has not been incorporated into a final due process order.

The facts of this case are unique. In 2007, a student and her family entered into a settlement agreement with the school district. The settlement terms included the parents’ consent to an assessment and provided that if the parents were uncooperative with the school district’s assessment, the student would be considered voluntarily placed in a private school. The parents subsequently objected to the school district’s assessment plan. After unsuccessful attempts to meet with the parents and resolve their concerns, the school district declared the student a voluntarily placed private school student. Believing they did not have the parents’ consent to assess the student, the school district never scheduled any assessment dates. Nonetheless, the parents made repeated inquiries about assessment and never specifically refused to make the student available.

The student filed for a due process hearing before OAH requesting reimbursement of her private school expenses, arguing that the district had failed to comply with the settlement agreement. Applying the ruling in Wyner v. Manhattan Beach Unified School District (9th Cir. 2000) 223 F.3d 1026 (“Wyner”), where the Ninth Circuit held that OAH could order but not enforce IDEA settlement agreements, OAH found that it did not have the authority to determine whether the district breached the settlement agreement and dismissed the student’s due process request.

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On appeal, the district court held that Wyner is not a complete bar to OAH's ability to hear claims regarding settlement agreements, finding that OAH may review and enforce settlement agreements that have not been incorporated into a final due process order. The district court remanded the case to OAH and ordered them to consider the effect of, and enforce, the parties' 2007 settlement agreement.

On remand, OAH found that the totality of the parents' conduct illustrated an intent to obstruct the district's assessment. However, OAH also found that the district was incorrect in its belief that the parents never consented to the assessment process, noting that the settlement agreement specifically stated that the parents gave their consent for assessment. Moreover, OAH found that the parents never actually refused to produce the student for assessment because the school district never provided any assessment dates. Weighing the equities of this case, while the parents were able to prove that the student was denied a free appropriate public education ("FAPE") such that she was entitled to private school tuition, OAH significantly reduced the reimbursement amount due to the parents' unreasonable actions.

If you have questions regarding contractual issues for your agency, please do not hesitate to contact one of our [eight offices](#) located statewide or consult our [website](#).

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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.