BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

[redacted], by and through [redacted], **Petitioners,** **v.** **DEKALB COUNTY SCHOOL DISTRICT,** **Respondent.**	**Docket No.: [redacted]** **[redacted]-OSAH-DOE-SE-44-Woodard**

FILED
11-29-2022
OFFICE OF STATE ADMINISTRATIVE HEARINGS

FINAL DECISION AND
ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY DETERMINATION

This matter was initiated on July 25, 2022, when Petitioners' Due Process Hearing Request was filed with the Georgia Department of Education and referred to this Court. On September 1, 2022, Petitioners filed an Amended Complaint. Respondent DeKalb County School District (hereinafter "the District") filed a Motion for Summary Determination on September 28, 2022. Petitioner filed its response to the Motion for Summary Determination on October 28, 2022, and Respondent filed a reply to Petitioner's response on November 11, 2022. [1] In its Motion, the District argues that Petitioners' claims, which allege a breach of the parties' 2020 settlement agreement, fall outside the jurisdiction of the Office of State Administrative Hearings. For the reasons stated below, the District's Motion is **GRANTED**.

Findings of Fact

1. Petitioner [redacted] is twelve years old. He is a former student of the District, but is now attending [redacted]. (OSAH Form 1).

2. On April 27, 2020, while [redacted] was still a student in the District, his mother, [redacted]

[1] All other pleadings filed in this matter, including two Notices of Insufficiency filed by Respondent and various reports following Early Resolution Sessions, are not considered relevant to the issue of whether summary determination is appropriate, and are therefore not addressed further in this Order.

filed a due process hearing request. (Exhibit B attached to Respondent's Response to the Due Process Complaint (hereinafter referred to solely as "Respondent's Response")). That complaint was resolved through the early resolution process, and the parties entered into a binding settlement agreement on May 15, 2020, which released all existing claims. (Exhibit C attached to Respondent's Response). Both parties were represented by counsel through the resolution process. (Respondent's Response).

3. As part of the agreement, the District delegated its responsibility to educate to [redacted] to [redacted] and made a payment of $30,000 to [redacted] to be used for educational services that school districts are obligated to provide to eligible students. (Exhibit C attached to Respondent's Response). The agreement also contained a confidentiality provision which stated in relevant part:

> The Parties mutually agree that the terms of the Agreement shall be held in strict confidence as an educational record and protected as such by the terms of FERPA, 20 U.S.C. § 1232(g) and its implementing regulations, and shall not be disclosed except for the purpose of implementation of the Agreement, oversight of the implementation of the Agreement, enforcement of the Agreement, and any action or proceeding for breach of the Agreement. Further the Parties may consult an accountant, financial advisor, or the IRS regarding this Agreement for tax or financial purposes only. The School District can disclose the terms of the Agreement as required by the Georgia Department of Audits. Disclosure of the terms of the Agreement to persons not listed above for the reasons stated above or to those that are not providing the above-referenced services shall constitute a material breach of this Agreement, and the Family shall immediately forfeit their right to any unexpended funds under Paragraph 1 of this agreement.

(Exhibit C attached to Respondent's Motion). Pursuant to the settlement agreement, this Court entered an Order of Dismissal with Prejudice on May 20, 2020. (Exhibit D attached to Respondent's Response).

4. [redacted] was last enrolled in the District during the 2019-2020 school year, when he attended Montgomery Elementary School. He has not attended a school within the District since May 2020. (Respondent's Response; Affidavit of Kiana King, ¶ 7). Moreover, [redacted]s most current

address, as provided in his Due Process Hearing Request, indicates that he is currently zoned for the Walton County School District, not DeKalb County. (OSAH Form 1; Respondent's Response).

5. Despite [redacted] no longer residing within the Dekalb County school district, on July 25, 2022, Petitioners initiated the present case against the District by filing another Due Process Hearing Request with the Department of Education, which was subsequently referred to this Court. Petitioners' Amended Complaint alleged that the District violated the confidentiality clause of the Settlement Agreement by both making "multiple verbal disclosures" to persons not party to the agreement and "broadcast[ing] to the world through its website material terms of the settlement agreement." Petitioners say this was done to "punish, harass, and annoy the petitioners." (Amended Complaint).

Conclusions of Law

1. Summary determination in administrative hearings is governed by Office of Administrative Hearings Rule 15 ("Rule 15"), which provides, in relevant part:

> A party may move, based on supporting affidavits or other probative evidence, for summary determination in its favor on any of the issues being adjudicated on the basis that there is no genuine issue of material fact for determination and the moving part is entitled to prevail as a matter of law.

Ga. Comp. R. & Regs. 616-1-2-.15(1). *See generally Piedmont Healthcare, Inc. v. Ga. Dep't of Hum. Res.*, 282 Ga. App. 302, 304-05 (2006) (noting that a summary determination is "similar to a summary judgment" and explaining that an ALJ "is not required to hold a hearing" on issues properly resolved by summary adjudication). The party opposing the motion for summary determination "may not rest upon mere allegations or denials, but must show, by affidavit or other probative evidence, that there is a genuine issue of material fact for determination." Ga. Comp. R. & Regs. 616-1-2-.15(3). In considering a motion for summary determination, "the court must view all evidence and draw all reasonable inferences in the light most favorable to the non-moving

party." *Floyd v. SunTrust Banks, Inc.*, 878 F. Supp. 2d 1316, 1321 (N.D. Ga. 2012) (*citing Patton v. Triad Guar. Ins. Corp.*, 277 F.3d 1294, 1296 (11th Cir. 2002)).

2. The District argues that Petitioners failed to raise a cognizable claim before this Court. Specifically, the "sole area of contention" is the alleged breach of the confidentiality clause within the parties 2020 settlement agreement. That, according to the District, is a contractual dispute, not a claim under the IDEA.

3. The IDEA provides the opportunity for a party 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 and appropriate public education to the child." 20 U.S.C. § 1415(b)(6). This Court has held that "where an IDEA complaint does not assert a claim related to the identification, evaluation, or educational placement of a child with a disability or the provision of a FAPE to a child with a disability, this Tribunal has no jurisdiction over enforcement of an IDEA Mediation Settlement Agreement," because the Court "does not have jurisdiction over state-law contract claims." *Troupe Cty. Sch. Dist.*, OSAH-DOE-SE-1034017-141-Howells (Oct. 2010) at 11. *See also Clayton Cty. Sch. Dist.*, 1931978-OSAH-DOE-SE-31-Howells (May 2019) (noting that OSAH "is not a court of competent jurisdiction for enforcement of contracts. Rather, OSAH's jurisdiction is limited to that conferred by the Georgia Administrative Procedures Act or other specific state or federal statutes and rules.").

4. Instead, the IDEA specifically states that a settlement agreement executed in the course of an early resolution session is "[e]nforceable in any State court of competent jurisdiction or in a district court of the United States." 20 U.S.C. § 1415(f)(1)(B)(iii)[2]. As the District notes, OSAH

[2] This provision was added by the 2004 Amendments and became effective on July 1, 2005. Individuals with Disabilities Education Improvement Act of 2004, Pub. L. No. 108-446; 34 C.F.R. 300.510(d)(2); *see also Traverse*

is neither—it is an executive branch agency "charged with conducting impartial administrative hearings in contested cases between state agencies and private parties." *Troup Cty. Sch. Dist.*, OSAH-DOE-SE-1034017-141-Howells (Oct. 2010).

5. Some unpublished Eleventh Circuit cases have held that, per the IDEA's exhaustion requirement[3], parents must exhaust administrative remedies before bringing a claim in federal court for breach of an IDEA settlement agreement. In *School Board v. M.M.*, the parents asserted that the school board had failed to provide educational services to their child as required by a prior settlement agreement. 348 Fed. Appx. 504, 511 (11th Cir. 2009). The court concluded that a "parent's claim that a school board had breached the provisions of a settlement agreement that has resulted from an IDEA due process hearing is also primarily a challenge relating to the provision of a FAPE and must be addressed administratively." *Id.* The court reached a similar conclusion in *J.P. v. Cherokee County Board of Education*, where it held that the plaintiff was required to exhaust administrative remedies for his claim of breach of a settlement agreement because his "alleged injuries *primarily* relate to the provision of his FAPE, and thus constitute educational injuries." 218 Fed. Appx. 911, 913 (11th Cir. 2007) (emphasis in original). But unlike in *M.M.* and *J.P.*, Petitioners' injuries are not "primarily" related to a provision or denial of a FAPE—in fact, they are not related to [redacted]s education at all. Instead, Petitioners' complaint solely concerns whether, roughly two years after [redacted] had last been a student in the district, Respondent breached the confidentiality provisions of the settlement agreement.

Bay Area Intermediate Sch. Dist. v. Mich. Dep't of Educ., 2007 U.S. Dist. LEXIS 54660, at *20-21 (W.D. Mich., July 27, 2007) (recognizing that the 2004 Amendments made written agreements developed through early resolution sessions enforceable in state and federal court).

[3] "[B]efore the filing of a civil action under [other federal laws protecting the rights of children with disabilities], the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this part." 20 U.S.C. § 1415(l).

6. Further, neither of these Eleventh Circuit cases addressed the provision of 20 U.S.C. § 1415(f) providing for enforcement of early resolution settlement agreements in state or federal court. Both the settlement and the alleged breach in *J.P.* occurred prior to the 2004 Amendments. 218 Fed. Appx. at 913. And the settlement agreement in *M.M.* was not a resolution session settlement agreement, so Section 1415(f) did not apply. 348 Fed. Appx. at 508.

7. The District also notes that, even if Petitioners had brought a claim properly falling under the IDEA, the claim would be barred both by the statute of limitations and the parties' settlement agreement. (Mot. for Summary Determination). Due process complaints filed pursuant to the IDEA are subject to a two-year statute of limitations. 20 U.S.C. § 1415(f)(3)(c). [redacted] has not received any educational services from the District since May 2020, more than two years before the present due process hearing request was filed. (Exhibit A attached to Respondent's Response). Therefore, any claims under the IDEA would be barred by the statute of limitations. Further, the 2020 settlement agreement released all existing claims up until the date of its execution (Exhibit C attached to Respondent's Response). The Amended Complaint does not allege any claims under IDEA. However, the District is correct that if it had, those claims would be barred.

Decision

For the foregoing reasons, the District's Motion for Summary Determination is **GRANTED**, and the Petitioners' Amended Complaint is **DISMISSED** with prejudice.

SO ORDERED, this 29th day of November, 2022.

M. Patrick Woodard
Administrative Law Judge