

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

██████████, BY AND THROUGH ██████████; AND  
██████████,

**Petitioners,**

v.

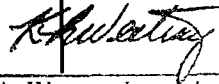
**CLAYTON COUNTY SCHOOL  
DISTRICT,**

**Respondent.**

Docket No.: 1931978  
1931978-OSAH-DOE-SE-31-Howells

FILED  
OSAH

MAY 08 2019



Kevin Westray, Legal Assistant

**FINAL DECISION  
AND ORDER GRANTING SUMMARY DETERMINATION**

This matter was initiated on March 26, 2019, when Petitioners' Due Process Hearing Request ("Complaint") was filed with this Court. On April 11, 2019, the Court issued an Order on Sufficiency of Due Process Complaint, determining that the Complaint was insufficient and ordering Petitioners to amend the Complaint accordingly. On April 17, 2019, Petitioners filed an Amended Complaint ("Amended Complaint").<sup>1</sup> On April 23, 2019, Respondent Clayton County School District (the "District") filed an Expedited Motion for Summary Determination and Brief in Support.<sup>2</sup> The District contends that the issues presented to this Court in the Amended Complaint were resolved when the parties participated in a state-facilitated voluntary mediation on March 22, 2019, and entered into a binding agreement. Petitioners did not file a response to

---

<sup>1</sup> Petitioner filed the Amended Complaint not with this Court, but instead with the Georgia Department of Education, which then submitted it to the Office of State Administrative Hearings. As a result, the Amended Complaint initially was erroneously docketed as a new case, 1934116. The error has been corrected, and Docket 1934116 is now closed. The undersigned notes that the District states in its Motion for Summary Determination that, as of April 22, 2019, it had not been served with a copy of Petitioners' Amended Complaint and instead was working from a copy provided by the Court.

<sup>2</sup> On the same date, April 23, 2019, the District also filed a second Notice of Insufficiency and a Motion for Extension of Time. These motions were denied by the Court on April 29, 2019.

the Motion for Summary Determination.<sup>3</sup> For the reasons that follow, the District's motion is **GRANTED**.

*Findings of Fact*

1.

Petitioner [REDACTED] is a twelve-year-old fifth grader attending a school within the District.<sup>4</sup> He is eligible to receive special education services under the Individuals with Disabilities Education Act ("IDEA"). (Amended Complaint; Exhibit A attached to Respondent's Motion.)

2.

On or around February 6, 2019, [REDACTED] aunt, Petitioner [REDACTED] filed a Formal Complaint with the Georgia Department of Education and indicated her willingness to participate in mediation to resolve her concerns. (Exhibit B attached to Respondent's Motion.)

3.

On March 22, 2019, a mediation meeting was held between Petitioner [REDACTED] and Trina Smith (Department of Exceptional Students Director). Ms. Smith was designated as a representative of the District with authority to resolve the issues between the parties. Also in attendance at the meeting were Scharbrenia Lockhart (the principal of Smith Elementary) and Sheila Cook (Department of Exceptional Students Coordinator). (Exhibit C attached to Respondent's Motion.)

4.

On the same day, March 22, 2019, [REDACTED] and the District signed a Mediation Agreement.

Paragraph 4 of the Mediation Agreement states as follows:

---

<sup>3</sup> On April 29, 2019, the Court ordered Petitioners to file a response to the Expedited Motion for Summary Determination no later than May 3, 2019, at 4:00.

<sup>4</sup> The Due Process Hearing Request, Amended Due Process Hearing Request, and Georgia Department of Education Formal Complaint Form (Exhibit B to Respondent's Motion) indicate that [REDACTED] attends Robert T. Smith Elementary. The Motion for Summary Determination, the IEP dated March 6, 2019, and a Transfer Enrollment Form dated August 8, 2018, indicate that he attends Mount Zion Elementary School.

This agreement and the dismissal of the FORMAL COMPLAINT will become effective at 8am on 3/26/2019, Tuesday, unless the parent contacts the Georgia Department of Education (GaDOE). Unless otherwise notified at 8am on 3/26/2019, this agreement will become binding.

Paragraph 8 of the Mediation Agreement includes the following language:

This Agreement constitutes the total and final resolution of any and all issues that were or could have been the subject of a legal action, including the current Formal Complaint with the Georgia Department of Education, or a complaint with any federal or state agency, through the date of the execution of this Agreement. The Parent specifically agree [*sic*] to withdraw the current Department of Education Complaint, as noted in item 4 above. This Agreement does not impact either party's ability to bring any future claim.

(Exhibit C attached to Respondent's Motion.) On March 28, 2019, the Georgia Department of Education issued a letter stating that, because the matter had been resolved in mediation, the complaint had been closed. This closure letter was addressed to the Superintendent of the District and was copied to Petitioner [REDACTED], among other relevant parties. (Exhibit D attached to Respondent's Motion.)

5.

As noted previously, Petitioners' Complaint was filed in this tribunal this on March 26, 2019. The form shows that it was received by the Georgia Department of Education on March 25, 2019. Petitioners subsequently filed the Amended Complaint on April 17, 2019. In both the Complaint and the Amended Complaint, Petitioners indicate as follows: "Mediation already done 3/22/19."

### ***Conclusions of Law***

1.

Summary determination in this proceeding is governed by Office of State Administrative Hearings ("OSAH") 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.

Ga. Comp. R. & Regs. 616-1-2-.15(1). On a motion for summary determination, the moving party must demonstrate that there is no genuine issue of material fact such that the moving party “is entitled to a judgment as a matter of law on the facts established.” Pirkle v. Env'tl. Prot. Div., Dep't of Natural Res., OSAH-BNR-DS-0417001-58-Walker-Russell, 2004 Ga. ENV. LEXIS 73, at \*6-7 (OSAH 2004) (citing Porter v. Felker, 261 Ga. 421 (1991)); see generally A.B. v. Clarke County Sch. Dist., 2009 U.S. Dist. LEXIS 27102, at \*9 (M.D. Ga. 2009); Piedmont Healthcare, Inc. v. Ga. Dep't of Human Res., 282 Ga. App. 302, 304-305 (2006). 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).

2.

The IDEA provides that parents or guardians and local education authorities may mediate and enter into settlement agreements to resolve disputes under the Act. See 20 U.S.C. § 1415(e). As set forth in 20 U.S.C. § 1415(e)(2)(F), when a complaint is resolved through mediation, “the parties shall execute a legally binding agreement . . . .”<sup>5</sup>

3.

Based on the documents before the Court, and in the absence of any response from Petitioners showing a genuine issue of material fact to be determined, it appears that all claims have been resolved. As set forth in the Mediation Agreement, in conjunction with the closure

---

<sup>5</sup> The undersigned notes that the Court has not been asked to *enforce* the Mediation Agreement. The Court instead has been asked to recognize that issues that were resolved or could have been the subject of legal action as of the date of the Mediation Agreement were resolved and thus are not appropriately raised by the Petitioners. The Office of State Administrative Hearings (“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. See O.C.G.A. §§ 50-13-13, 50-13-40(a).

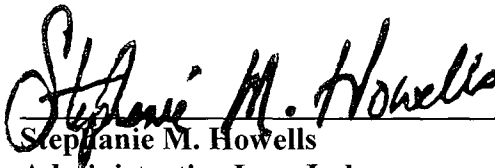
letter of March 28, 2019, the issues raised by Petitioners were resolved in mediation. (See Exhibits C and D attached to Respondent’s Motion.) Petitioners have offered nothing to suggest that there is a genuine issue of material fact as to whether the Mediation Agreement binds the parties. Even if the claims that Petitioners now seek to bring in the Amended Complaint are different from or unrelated to those that were resolved in the Mediation Agreement, the language of Paragraph 8 states that it is “the total and final resolution of *any and all* issues that *were or could have been* the subject of a legal action . . .” (emphasis added) as of the date on which the agreement became binding. See, e.g., S. Kingstown Sch. Comm. v. Joanna S., 773 F. 3d 344, 353-54 (1st Cir. 2014) (finding settlement agreement between school district and parent was “best read to release any right to additional evaluations . . . except when her request for one arises from a change in the conditions that prevailed at the time she signed the Agreement”) (citing D.R. by M.R. E. Brunswick Bd. of Educ., 109 F.3d 896, 900-01 (3rd Cir. 1997)); see also Ballard v. Phila. Sch. Dist., 273 Fed. Appx. 184, 188 (3rd Cir. 2008) (where a parent later contended that a settlement agreement fell short of providing a free appropriate public education, the court stated, “An agreement is not void because a party settled for less than s/he later believes the law provides.”). The Court has not been made aware of any changes in circumstances that would support invalidation of the Mediation Agreement.

### ***Decision***

For the foregoing reasons, the District’s motion for summary determination is **GRANTED**, and Petitioners’ Amended Complaint is **DISMISSED** with prejudice.

All other pending motions are **DENIED** as moot.

SO ORDERED, this 8th day of May, 2019.

  
Stephanie M. Howells  
Administrative Law Judge