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9th Circuit Clarifies Post-Settlement Access to Courts

U.S. Court of Appeals for the Ninth Circuit recently ruled that, after parents and a school district settle a special education due process case, the parents cannot later bring a lawsuit claiming that the school district violated related laws, such as the Americans with Disabilities Act (ADA) and/or Section 504 of the Rehabilitation Act of 1973 (Section 504), where those claims challenge the appropriateness of the student's education. Courts in the Ninth Circuit must now dismiss pending post-settlement lawsuits containing such claims. School districts should be aware that, going forward, parents may be unwilling to settle due process cases or may demand higher settlement amounts.

Parents seeking to challenge a school district's education of a student with a disability may do so under the Individuals with Disabilities Education Act (IDEA) (alleging that the school district failed to provide the student with a free, appropriate public education (FAPE)) and/or under the ADA and Section 504 (alleging that the district discriminated against the student). Parents must initiate their IDEA claims by filing a complaint with the Office of Administrative Hearings (OAH), and may bring only bring lawsuits in court alleging IDEA violations after OAH issues a decision.

Case law previously allowed parents to settle their IDEA claims before OAH issued a decision, and then bring lawsuits in court alleging ADA and Section 504 violations. This meant that parents who believed that they had viable ADA and Section 504 claims (in addition to IDEA claims) were nevertheless willing to settle their IDEA claims, with the expectation that they would then raise their ADA and Section 504 claims in court.

In *Paul G. v. Monterey Peninsula Unified School District and California Department of Education*, the Ninth Circuit ruled that parents can no longer proceed in this manner. In that case, a student filed a due process claim with OAH, alleging that his educational placement was inappropriate and therefore violated the IDEA. He and his school district later settled the case. The student then sued in federal district court, claiming discrimination in violation of the ADA and Section 504 based on the same allegedly inappropriate placement. The district court dismissed the case, and the Ninth Circuit upheld that dismissal. It found that, because the student's Section 504 and ADA claims involved the appropriateness of his education, he was required to obtain a ruling from OAH before proceeding to court, just as would have been required if he sought to bring IDEA claims in court.

This ruling affects school districts in two important ways. First, it will allow dismissal of pending Section 504 or ADA lawsuits in the Ninth Circuit where (1) the underlying IDEA due process proceeding settled, and (2) the Section 504/ADA claims involve the appropriateness of a student's education. School districts should carefully analyze any pending Section 504 or ADA lawsuits to see if they can be dismissed on this basis.

Second, *Paul G.* may make it more difficult and costly for school districts to settle due process cases where the parents intend to seek relief under other statutes such as Section 504 or the ADA. In such cases, the parents may refuse to settle, or may demand an amount sufficient to compensate them for their expected Section 504 and ADA damages.

School districts should also be aware that carve-outs in due process settlements that purport to allow parents to later bring Section 504 or ADA claims in court are now ineffective.

If you have any questions about whether a pending lawsuit involves claims that may be dismissed under *Paul G.*, or any other related questions, please contact one of our six offices.

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