BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ALTA LOMA SCHOOL DISTRICT.

OAH CASE NUMBER 2019091099

ORDER GRANTING AND DENYING IN PARTS ALTA LOMA SCHOOL DISTRICT'S MOTION TO DISMISS ISSUES

On September 27, 2019, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Alta Loma School District. The Office or Administrative Hearings is referred to as OAH. Alta Loma School District is referred to as Alta Loma.

On November 27, 2019, Alta Loma filed a Motion to Dismiss alleging Student's issues one, two, three and four are moot, have been previously litigated in another OAH case with the same parties, OAH Case No. 2017120979, and/or that OAH lacks jurisdiction to adjudicate those issue. OAH Case No. 2017120979 will be referred to as the Prior OAH Case. On December 3, 2019, Student filed an opposition to the Motion to Dismiss as to issues one, two and three.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education," and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right 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 appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a free appropriate public education to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029 (*Wyner*).)

OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code, the Americans with Disability Act (42 U.S.C. §§ 1201, et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51).

DISCUSSION

Student alleges the following issues in his complaint:

1. Whether the District's 2017 demand that Petitioner's parents accept a cost cap criteria of $1,000 for the vision therapy/visual processing assessment by Dr. Stephey was reasonable under the IDEA in light of the District's own criteria?
2. Whether the District timely paid the $1,000 that Petitioner's parents agreed to accept for Dr. Stephey's vision therapy/visual processing assessment?
3. Whether the District timely obtained a decision in its due process complaint filed on December 5, 2017 and is time-barred from now proceeding on that complaint.?
4. Whether the District's actions, in rejecting the parents' acceptance of an amount below its cost cap criteria, in pursuing its due process complaint with full knowledge that the parents had accepted and agreed to its $1,000 cost cap criteria, in withdrawing its due process complaint without prosecuting/completing it and obtaining a decision, violated [Student]'s and his parents/rights (sic) under Section 504, the Americans with Disabilities Act/ADA, (sic) and State civil rights?

In the Prior OAH Case, the issue decided was: Did District unnecessarily delay filing a due process complaint in response to Parent's August 2017 written request for an independent educational evaluation in visual processing?

ISSUES 1 AND 2

Student alleged in issues one and two that Alta Loma failed to comply with the Individual with Disabilities Act. Student's issues one and two in this matter about the reasonableness of Alta Loma's visual processing assessment cost criteria, and whether it timely paid parent were not at issue, or litigated in the Prior OAH Case.

Further supporting that issue two had not been decided in the Prior OAH Case, the District Court specifically stated that "Any subsequent unreasonable delays caused by [Alta Loma] in failing to fund the cost of [Student]'s IEE following the administrative hearing is a separate legal issue that would have to be resolved through the filing of a subsequent administrative complaint", in its February 22, 2019 order granting motion to supplement the administrative record during Student's appeal of the Prior OAH Case. (*L.C. v. Alta Loma School Dist.* (July 18, 2019, Case No.: 5:18-CV-01535-SVW-SHK), 2019 WL 6620506, * 2.)

Therefore, OAH has jurisdiction to hear Student's issues one and two. Accordingly, the motion to dismiss issues one and two is denied.

ISSUE 3

Student's issue three was decided in the Prior OAH Case.

Federal and state courts have traditionally adhered to the related doctrines of res judicata and collateral estoppel. (*Allen v. McCurry* (1980) 449 U.S. 90, 94 [101 S.Ct. 411, 66 L.Ed.2d 308]; *Levy v. Cohen* (1977) 19 Cal.3d 165, 171 [collateral estoppel requires that the issues presented for adjudication be the same as those decided in the prior action, that there be a final judgment on the merits in the prior action, and that the party against whom the plea is asserted was a party to the prior action]; see 7 Witkin, California Procedure (4th Ed.), Judgment § 280 et seq.) Under the doctrine of res judicata, a final judgment on the merits of an action precludes the parties or their agents from re-litigating issues that were, or could have been, raised in that action. (*Allen, supra*, 449 U.S. at p. 94.) Under collateral estoppel, once a court has decided an issue of fact or law necessary to its judgment, that decision may preclude re-litigating the issue in a suit on a different cause of action involving a party to the first case. (*Ibid.*; *Lucido v.*

Superior Court (1990) 51 Cal.3d 335, 341; see also *Migra v. Warren City School Dist. Bd. of Ed.* (1984) 465 U.S. 75, 77, n. 1 [104 S.Ct. 892, 79 L.Ed.2d 56] [federal courts use the term "issue preclusion" to describe the doctrine of collateral estoppel].)

Collateral estoppel and res judicata are judicial doctrines, but they are also applied to determinations made in administrative settings. (See *Pacific Lumber Co. v. State Resources Control Board* (2006) 37 Cal.4th 921, 944, citing *People v. Sims* (1982) 32 Cal.3d 468, 479; *Hollywood Circle, Inc. v. Department of Alcoholic Beverage Control* (1961) 55 Cal.2d 728, 732.)

The Prior OAH Case decided whether "[Alta Loma] unnecessarily delayed filing a due process complaint in response to Parent's August 2017 written request for an independent educational evaluation in visual processing " is the same as issue three of "[w]hether [Alta Loma] timely obtained a decision in its due process complaint filed on December 5, 2017…". Despite the slight difference in wording, issue 3 and the issue in the Prior OAH Case dealt with the timeliness of Alta Loma's filing for due process. Further despite Student's reference to the December 5, 2017 complaint date in issue 3, and Student's reference to the August 2017 Parent's written request for assessment date in the Prior OAH Case, both issues are about the same December 5, 2017 complaint filed by Alta Loma. *(See, Student v. Alta Loma School Dist. (June 14, 2018) OAH Case No. 2017120979,* and the District Court's decision *L.C. v. Alta Loma School Dist. (July 18, 2019, Case No.: 5:18-CV-01535-SVW-SHK), 2019 WL 3246505, * 21.)*

Issue three about the timeliness of Alta Loma's due process filing for the same time was litigated by the same parties in the Prior OAH Case. The parties received a final judgment under the merits of the Prior OAH Case. The doctrine of res judicata precludes the parties from re-litigating it again.

Accordingly, issue three is dismissed. The motion dismiss issue three is granted.

ISSUE 4

Neither party disputes that OAH has no jurisdiction over Section 504 of the Rehabilitation Act of 1973, the Americans with Disability Act, and the Unruh Civil Rights Act. The complaint states that these claims are made to satisfy an exhaustion requirement under federal law. OAH does not have jurisdiction to resolve these claims. Accordingly, issue four is dismissed. The motion dismiss issue four is granted.

ORDER

1. Alta Loma's Motion to Dismiss is denied as to issues one and two. The matter will proceed as scheduled as to issues one and two.
2. Alta Loma's Motion to Dismiss is granted as to issues three and four.
3. The matter shall proceed as scheduled.

IT IS SO ORDERED.

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Sabrina Kong
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DATED: December 6, 2019

Sabrina Kong
Administrative Law Judge
Office of Administrative Hearings