

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

MARK TWAIN ELEMENTARY UNION SCHOOL DISTRICT AND
CALAVERAS COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2026060921

ORDER DENYING MOTION TO STRIKE PORTION OF
"SETTLEMENT COMMUNICATIONS" SECTION FROM DUE
PROCESS COMPLAINT

JULY 17, 2026

On June 16, 2026, Parent on behalf of Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Mark Twain Elementary Union School District, called Mark Twain and Calaveras County Office of Education, called Calaveras. The Request for Due Process is referred to as a Complaint. The Office of Administrative Hearings is referred to as OAH.

On July 9, 2026, respondents Mark Twain and Calaveras jointly filed a Motion to Strike portions of Student's Due Process Complaint. OAH has not received a response from Student.

APPLICABLE LAW

Special education law does not specifically address motions to strike pleadings or evidence. In ruling on such motions, OAH relies on the relevant portions of the California Evidence code and the Code of Civil procedure.

California Evidence code section 1152(a) provides that evidence of settlement negotiations or settlement proposals is inadmissible to prove liability. Where settlement communications are disclosed for the purpose of supporting liability for a claim, they are inadmissible. Respondents cite *C&K Engineering v. Amber Steel Co.* (1978) to support their argument that the California Supreme Court extended Evidence Code section 1152(a) protections to statements made throughout the negotiation of an offer, making them improper for pleading text. In the above case, the California Supreme Court held, "the strong public policy favoring settlement negotiations and the necessary of candor in conducting them combine to require exclusion of Olson's admission." *C & K Engineering Contractors v. Amber Steel Co.* (1978) 23 Cal.3d 1, 13 [151 Cal.Rptr. 323, 330, 587 P.2d 1136, 1143] The court did not extend California Evidence code section 1152(a) to pleadings such as a due process complaint.

DISCUSSION

Respondents' Motion to Strike requests that the first six paragraphs under Student's Due Process Complaint Section "Settlement Discussions" be stricken from the Due Process Complaint and disallowed from being used as evidence against Mark Twain and Calaveras.

The first six paragraphs of section, "Settlement Discussions" detail settlement discussions between the parties regarding Student's educational placement and supports. The complaint details the topics of the settlement discussions as well as a specific settlement proposal made by respondents. Student states, "Parent believes these discussions reflect recognition [from respondents] that [Student] requires a different educational placement than his previous program in order to appropriately address his educational and emotional needs." Student goes on to discuss a waiver of claims for proposed educational supports and services offered above.

First, respondents request that evidence of settlement discussions be disallowed from being used as evidence against Mark Twain and Calaveras. California evidence code section 1152(a) prohibits the admission of settlement discussions, where it is used to prove liability. That is not the situation here. A complaint is not evidence. Nor has Student submitted a settlement proposal to OAH as evidence.

Second, respondents seek to strike portions of Student's complaint. Respondents argue that the settlement discussions described in the Complaint, if considered by this court, would be highly prejudicial and have a chilling effect on the mediation and negotiation process. Administrative law judges are trained, neutral adjudicators with the necessary objectivity to disregard inadmissible evidence. Any reference to settlement discussions in the Complaint does not unduly prejudice respondents. For the above reasons Mark Twain's and Calaveras' motion to strike is denied.

Nothing in this order prevents respondents from filing a motion to exclude in the future if evidence of settlement discussions or offers is submitted by Student to prove liability.

ORDER

Mark Twain's and Calaveras' motion to strike is denied.

IT IS SO ORDERED.

Katherine Roe
Katherine Roe (Jul 17, 2026 15:09:35 PDT)

Katherine Roe

Administrative Law Judge

Office of Administrative Hearings