BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: GARDEN GROVE UNIFIED SCHOOL DISTRICT , v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2019020296 ORDER GRANTING GARDEN GROVE'S REQUEST FOR OFFICIAL NOTICE AND DENYING GARDEN GROVE'S MOTION FOR A PRE-HEARING DETERMINATION OF FACT

On February 7, 2019, Garden Grove Unified School District filed a request for due process hearing naming Student. On the same date, Garden Grove also filed a request that OAH take official notice of a prior decision between the parties, and a concurrent "Motion Seeking Determination of Res Judicata/Collateral Estoppel or, in the Alternative, a Finding of Inapplicability of the IDEA's "File or Fund Obligation." OAH understands Garden Grove's Motion to be the equivalent of a motion for summary judgment on the grounds the matter has been decided in a previous case. On February 12, 2019, Parents on behalf of Student filed a response to Garden Grove's request for hearing, an opposition to Garden Grove's request for official notice, and an opposition to Garden Grove's motion.

APPLICABLE LAW

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 issue presented for adjudication be the same one that was 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 relitigating 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 relitigation of 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].)

While collateral estoppel and res judicata are judicial doctrines, they are also applied to determinations made in some 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.) However, the Individuals with Disabilities Education Act contains a section that modifies the general analysis with regard to res judicata and collateral estoppel. The IDEA specifically states that nothing in the Act shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed. (20 U.S.C. § 1415(o); 34 C.F.R. § 300.513(c) (2006); Ed Code, § 56509.) Therefore, although parties are precluded from relitigating issues already heard in previous due process proceedings, parents are not precluded from filing a new due process complaint on issues that could have been raised and heard in the first case, but were not.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc…..), special education law does not provide for a summary judgment procedure.

DISCUSSION

On or around January 2, 2019, Parents requested independent educational evaluations of Student at public expense. Garden Grove thereafter responded with prior written notice and then a request for due process seeking OAH's ruling on the legal adequacy of the underlying evaluations. The adequacy of the underlying evaluations was litigated in a prior case between the same parties in OAH Case No. 2018090236, and a final decision was issued by OAH on December 17, 2018, finding Garden Grove's evaluations legally sufficient. Garden Grove now requests that OAH take notice of the prior decision, and seeks a pre-hearing resolution of its legal conundrum, the confluence of the "file or fund" requirement with the apparent preclusive effect of a prior OAH decision on Student's recent request for independent educational evaluations. Parents argue in their opposition that the prior decision either does not fit the requirements for collateral estoppel/res judicata, or their current request falls under an exception to the legal doctrine.

Here, OAH routinely takes notice of prior decisions pursuant to California Government Code Section 11515, and by analogy California Evidence Code Sections 451 and 452. Garden Grove's request in that regard is granted. However, Garden Grove seeks the pre-hearing resolution of a matter based upon a factual determination by OAH that goes beyond simply taking notice of a prior decision by OAH. As such, Garden Grove seeks a

summary adjudication of facts. As noted above, such an adjudication is beyond the scope of pre-hearing remedies available to parties in special education due process matters. Accordingly, Garden Grove's motion seeking determination of res judicata/collateral estoppel or in the alternative a finding of inapplicability of the IDEA's "file or fund" obligation is denied without prejudice.

IT IS SO ORDERED.

DATE: February 14, 2019

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Ted Mann
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TED MANN
Administrative Law Judge
Office of Administrative Hearings