BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: UPLAND UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2019041141 ORDER DENYING MOTION TO DISMISS

On April 30, Student filed a Motion to Dismiss Upland Unified School District's complaint. On May 3, 2019, Upland filed an opposition to Student's motion to dismiss.

APPLICABLE LAW

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.

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].)

The doctrines of res judicata and collateral estoppel serve many purposes, including relieving parties of the cost and vexation of multiple lawsuits, conserving judicial resources, and, by preventing inconsistent decisions, encouraging reliance on adjudication. (*Allen, supra,* 449 U.S. at p. 94; see *University of Tennessee v. Elliott* (1986) 478 U.S. 788, 798 [106 S.Ct. 3220, 92 L.Ed.2d 635.) While collateral estoppel and res judicata are judicial doctrines, 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.)

However, the Individuals with Disabilities Education Act (IDEA) 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.

DISCUSSION

Here, Student seeks a dismissal of Upland's complaint, contending that the issues raised in this matter are the same issues raised in a previous complaint that was decided after hearing on March 14, 2019. The March 14, 2019, decision related to whether Upland was entitled to conduct assessments proposed in its March 5, 2018, assessment plan, without parental consent. The current case asks OAH to determine if Upland can conduct assessments proposed in its March 15, 2019, assessment plan, without parental consent. Thus, the issues in the current case extend beyond the date of the previous decision.

Further, Student's motion is not limited to matters that are facially outside of OAH jurisdiction. Whether or not the issues in this matter overlap the issues in the previous case is a decision for the hearing administrative law judge to make and is not appropriate for a motion to dismiss.

Accordingly, the motion to dismiss is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: May 10, 2019

DocuSigned by:
Cynthia Fritz
3054C9C1F7E040A...

CYNTHIA FRITZ
Administrative Law Judge
Office of Administrative Hearings