BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023020292

ORDER DENYING MOTIONS IN LIMINE

APRIL 25, 2023

On February 9, 2023, Student filed a Request for Due Process Hearing, referred to as a complaint with the Office of Administrative Hearings, referred to as OAH, naming San Francisco Unified School District.

On April 11, 2023, San Francisco filed a Motions in Limine. San Francisco's first motion in limine requests an order limiting Student's issues as pled in issues four through seven of the complaint, to the time period between February 9, 2021, and February 9, 2023, the date the complaint was filed. San Francisco specifically requests that the claims pled in issue seven must be limited to those arising or occurring during the 2022-2023 school year, through the date the complaint was filed on February 9, 2023. San Francisco requests to limit the testimony and evidence that goes beyond the statutory end date of Fabray 9, 2023. San Francisco's second motion in

limine requests a prehearing conference order excluding any evidence of confidential settlement communications between the parties, including but not limited to communications between Parent and district staff, as such communications are inadmissible and irrelevant to Student's claims. OAH received no response to the San Francisco's motions in limine from Student.

APPLICABLE LAW

The party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed under this section, unless the other party agrees otherwise. (20 U.S.C. §1415(f)(3)(B); Ed. Code, § 56502, subd. (i).)

Evidence that a person has, in compromise or from humanitarian motives, furnished or offered or promised to furnish money or any other thing to another who has sustained or will sustain claims they suffered loss or damage, as well as any conduct or statements made in negotiation thereof, is inadmissible to prove a person's liability for the loss or damage or any part of it. (Evid. Code, § 1152, subd. (a).)

DISCUSSION

San Francisco's first motion in liminie to limit the evidence at due process hearing related to issues four through seven is denied without prejudice. The administrative law judge, called ALJ, presiding at hearing will determine the scope of evidence that is relevant to the issues decided. It is premature to order that evidence is excluded simply based on the date the evidence arose. Evidence of events, facts, documents, or statements made before or after the time period at issue for hearing may be relevant to the issues decided. As a result, San Francisco's request for a blanket order to exclude or

limit evidence that goes beyond the statutory end date of February 9, 2023 is denied without prejudice.

San Francisco's second motion in limine to exclude evidence that violates Evidence Code section 1152, subdivision a, which prevents introduction of evidence that a person has made in compromise or from humanitarian motive, for the purpose of proving the person's liability for the loss or damage or any part of it, is denied without prejudice. The ALJ presiding shall determine whether evidence of a compromise is offered for a relevant or admissible purpose. The evidence code prevents such evidence to prove liability, however such evidence may be admissible for other reasons.

As a result, it is premature to order the exclusion of such evidence prior to hearing. Nothing in this order prevents a party from objecting to evidence they believe is a violation of the evidence code, including section 1152, subdivision a. San Francisco's request to order exclusion of evidence pursuant to Evidence Code section 1152, subdivision a, at hearing is denied without prejudice.

ORDER

1. San Francisco's first motion in limine requesting to limit evidence that goes beyond February 9, 2023, is denied without prejudice.
2. San Francisco's second motion in limine to exclude evidence pursuant to Evidence Code section 1152, subdivision a, is denied without prejudice.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings