

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRESNO UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015030220

ORDER DENYING MOTION TO
CONSOLIDATE

On March 3, 2015, Student filed the request for due process hearing (complaint) that is at issue in the above Case No., 2015030220. A due process hearing was conducted on June 10, 11, 12, 15, 16, 17, 18, 23, 24, and 25, 2015. The matter was completed on June 25, 2015, with the exception of the receipt of closing arguments which are now due on August 6, 2015.

On July 30, 2015, Student filed a “Motion to Consolidate” with four apparently new issues that he now wishes to have adjudicated. He has asked that these issues be “consolidated” with the issues already heard in the instant case in June 2015.

On July 30, 2015, Fresno Unified School District filed a response to two other motions filed by Student on July 29, 2015, which have already been ruled upon. In addition, Fresno indicated that more time was needed to file a response to the motion to consolidate. However, it is not necessary for Fresno to file a response since there already is enough information available with which to make a ruling.

APPLICABLE LAW

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Res Judicata and Collateral Estoppel

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 v. McCurry* (1980) 449 U.S. 90, 94 [101 S.Ct. 411, 66 L.Ed.2d 308].) 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 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 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 also apply to administrative hearings. (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 analyses regarding 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 re-litigating issues already heard and decided 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 AND ORDER

In his motion to consolidate Student indicates that he wishes to consolidate four new issues with the issues already heard in June 2015. However, the hearing has already been concluded, and with the exception of receipt of closing arguments, is ready to be decided. Student cannot now add new issues and reopen the case, and he has provided no authority to do so.

The motion to consolidate not only contains a description of the four issues Student now wishes to have adjudicated, but also contains a great deal of information concerning the hearing that has been completed and two recent motions he has made concerning that hearing.. Because this information would be confusing if it was part of a new complaint in a new case, OAH will not open a new file based on this pleading. Instead, if Student wishes to have a new case opened concerning these four issues, he may file a new complaint, without information relating to recent motions he has made, or the due process hearing that was just conducted. Accordingly, Student's motion to consolidate is denied.

IT IS SO ORDERED.

DATE: August 3, 2015

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings