

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
SPECIAL EDUCATION DIVISION
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

Petitioner,

v.

POWAY UNIFIED SCHOOL DISTRICT,

Respondent.

OAH CASE NO. N 2007040130

**ORDER DENYING RESPONDENT'S
MOTION TO DISMISS**

On April 3, 2007, attorney Michael S. Cochrane filed a request for a due process hearing (Complaint) with the Office of Administrative Hearings (OAH), on behalf of Student, which named the Poway Unified School District (District) as Respondent. On April 11, 2007, attorney Emily Shieh, on behalf of the District, filed a Motion to Dismiss Issue One from the Complaint. The District seeks a dismissal of Issue One, which contends that the District did not implement the last agreed upon and implemented Individualized Education Program (IEP) during the 2005-2006 school year. The District contends that Student's Issue One is barred the doctrines of collateral estoppel and res judicata pursuant to OAH's May 3, 2006 Decision in OAH Case No. N2005120568. Student filed a timely response on April 23, 2007.

LEGAL FRAMEWORK

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*, 449 U.S. 90, 94, 101 S.Ct. 411 (1980); 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 relitigation of the issue in a suit on a different cause of action involving a party to the first case. (*Id.*) 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. (*Id.*) While collateral estoppel and res judicata are judicial doctrines, they are frequently applied to determinations made in the administrative settings. (See *Hollywood Circle, Inc. v. Department of Alcoholic Beverage Control*, 55 Cal.2d 728, 732, 361 P.2d 712 (1961); *People v. Sims*, 32 Cal.3d 468, 479, 651 P.2d 321 (1982).)

California Education Code section 56505, subdivision (h), provides that a decision rendered in a due process hearing constitutes a final administrative determination and is binding on the parties.

DISCUSSION

The District asserts that Student's allegations relating to whether the District implemented Student's last agreed upon and implemented IEP during the 2005-2006 school year¹ are barred under the doctrines of collateral estoppel and res judicata based on the May 3, 2006 Decision between the parties. Respondent's contention that the May 3, 2006 Decision adjudicated whether the District provided Student with a Free and Appropriate Public Education during the 2005-2006 school year is not correct.

On December 5, 2005, Student filed a due process complaint against the District, OAH Case No. N2005120386. Student alleged that the District failed to have an IEP in place at the start of the 2004-2005 school year and various procedural and substantive deficiencies regarding the District's September 15, 2005, and October 10, 2005 IEPs, which denied Student a Free and Appropriate Public Education (FAPE). The District filed its own due process complaint on December 13, 2005, OAH Case No. N2005120568. The District alleged that its September 15, 2005, and October 10, 2005 IEPs provided Student with FAPE. OAH consolidated both cases for hearing on January 17, 2006. On January 27, 2006, Student dismissed without prejudice his complaint. OAH conducted a due process hearing between the parties on February 14 and 15, 2006, solely on the issues raised on the District's December 13, 2005 Complaint.

The only issue the parties litigated during the previous hearing involved whether the District's September 15, 2005, and October 10, 2005 IEPs provided Student with FAPE. The District did not raise in its due process complaint whether it properly implemented Student's last agreed upon and implement IEP during the 2005-2006 school year. The District does not cite to any legal authority that Student needed to file a counter claim regarding all possible issues regarding the 2005-2006 school year. Because the parties in the prior decision only litigated the appropriateness of the District's offer of services and placement in the September 10, 2005, and October 10, 2005 IEPs, allegations related to the implementation of the prior IEP are not barred by collateral estoppel nor res judicata.

¹ According to the May 3, 2006 Decision, Student stopped attending the District school in late January 2006.

ORDER

The District's Motion to Dismiss is denied.

Dated: April 30, 2007

PETER PAUL CASTILLO
Administrative Law Judge
Special Education Division
Office of Administrative Hearings