

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

K.M.,
Plaintiff,
v.
TEHACHAPI UNIFIED SCHOOL
DISTRICT, et al.,
Defendants.

Case No.: 1:17-cv-01431 LJO JLT
ORDER AFTER HEARING ON ORDER TO
APPEAR

BRENDA MARKHAM,
Plaintiff,
v.
TEHACHAPI UNIFIED SCHOOL
DISTRICT, et al.,
Defendants.

Case No.: 1:15-cv-01835 LJO JLT

BRENDA MARKHAM,
Plaintiff,
v.
TEHACHAPI UNIFIED SCHOOL
DISTRICT, et al.,
Defendants.

Case No.: 1:18-cv-00303 LJO JLT

1 TEHACHAPI UNIFIED SCHOOL
DISTRICT

Case No.: 1:16-cv-01942 LJO JLT

2 Plaintiff,

3 v.

4 K.M.,

5 Defendant.
6

7 The Court held a hearing on its “order to appear” issued to the school district defendants.
8 (Doc. 74¹) At the hearing, it was evident that, though the parties have settled the cases, they continue
9 to have disputes over the implementation of the settlement.² At the hearing, the parties agreed they
10 would engage in mediation with retired Magistrate Judge Stephen Larson to iron out all of the details.
11 The mediation is not to re-open the terms set forth in their written settlement agreement, but to
12 determine on the implementing details. The goal is to develop a document that could be
13 “administratively amended” to the child’s EOP, such to constitute the offer of the FAPE. Therefore,
14 the Court **ORDERS**:

15 1. **Immediately**, Mr. DeMaria will contact Judge Larson to set up the mediation. If
16 humanly possible, the mediation should be completed before the child returns to school on August 14,
17 2019;

18 2. **No later than July 12, 2019**, the parties SHALL file the stipulated dismissal for each
19 action. Mr. DeMaria will draft the stipulated dismissal for case number 1:17-cv-01431 LJO JLT. Ms.
20 Virrey Gutchner will draft the stipulated dismissal for the remaining cases. The stipulated dismissals
21 should request the Court to retain jurisdiction to enforce the settlement if any party wishes it to do so.
22 Only if all of the parties agree that they do not wish the Court to retain jurisdiction, should the
23 dismissals not request this;

24 ///

25 ///

26 _____
27 ¹ In case number 1:17-cv-01431 LJO JLT, the docket number is 51. In case number 1:18-cv-00303 LJO JLT it is Doc. 27
and in case number 1:16-cv-01942 LJO JLT it is 57.

28 ² Ms. Marcus indicated there were disputes as to other, unrelated cases involving this school district. In particular, she
reported that she had not been paid fees she had been awarded by this Court and by the Ninth Circuit for various stated
reasons including that the school board needed to take action. The Court declines to consider any other case not currently
noticed for hearing but observes that payment of court-ordered fees should require only the ministerial action of writing the
check.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. The order to appear and order to show cause as to all parties are **DISCHARGED**.

IT IS SO ORDERED.

Dated: July 8, 2019

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE