BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

KERN HIGH SCHOOL DISTRICT AND

KERN COUNTY SUPERINTENDENT OF SCHOOLS.

OAH CASE NUMBER 2023030389

ORDER DENYING MOTION FOR APPOINTMENT OF GUARDIAN AD LITEM WITHOUT PREJUDICE

JUNE 5, 2023

On March 9, 2023, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Kern High School District and Kern County Superintendent of Schools, and another school campus that has since been dismissed from the case. Office of Administrative Hearings is referred to as OAH.

On May 1, 2023, OAH granted Student's motion to amend and deemed filed Student's amended complaint. At all times since the complaint was filed, Student has been 18 years old and not conserved, and therefore holds his own educational rights.

On May 15, 2023, Student filed a motion and then a corrected motion to appoint Student's mother as his guardian ad litem for purposes of this special education due process hearing. Student established the Superior Court of the State of California, County of Kern appointed Student's mother as Student's guardian ad litem for purposes of litigation in that court. However, the application and supporting verification do not establish that Student has assigned, delegated, or transferred his educational rights to his mother, and do not, as Student's attorney asserts, in fact state Student wants his mother to hold his educational rights.

Neither Kern High School District nor Kern County Superintendent of Schools responded to Student's motion for OAH to appoint his mother as guardian ad litem.

OAH does not appoint a guardian ad litem for special education matters, because a student who is at least 18 years old and is not a conserved adult retains his educational rights and may freely appoint another competent adult as his educational rights holder without OAH involvement.

Student's motion to appoint his mother as his guardian ad litem for this special education due process matter is denied without prejudice to Student effecting a transfer of his educational rights by another legally effective document, which must be provided

to Kern High School District and Kern County Superintendent of Schools as well as filed with OAH.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings