

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENT ON BEHALF OF STUDENT,

v.

SAN LEANDRO UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2019030365

ORDER GRANTING MOTION TO DISMISS COMPLAINT  
WITHOUT PREJUDICE

On March 7, 2019, Parent on behalf of Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings, naming San Leandro Unified School District.

On March 15, 2019, San Leandro filed a Motion to Dismiss Parent's complaint, alleging that Student, whose date of birth is December 2000, is age 18, and is not subject to a conservatorship, nor has Parent alleged or provided proof of a transfer of educational rights from Student to Parent.

On March 20, 2019, Parent filed an opposition to the request to dismiss indicating Parent and Student were in the process of executing a transfer of Student's

educational rights to Parent, and that execution of the transfer of educational rights would be completed by close of business on March 20, 2019.

## APPLICATION OF LAW

Education Code section 56041.5 provides:

When an individual with exceptional needs reaches the age of 18, with the exception of an individual who has been determined to be incompetent under state law, the local educational agency shall provide any notice of procedural safeguards required by this part to both the individual and the parents of the individual. All other rights accorded to a parent under this part shall transfer to the individual with exceptional needs. The local educational agency shall notify the individual and the parent of the transfer of rights.

## DISCUSSION

Opposition to the motion to dismiss indicated Student was in the process of signing a transfer of her educational rights to Parent, and the executed transfer of educational rights would be completed on March 20, 2019. As of close of business on March 22, 2019, neither Parent nor Student filed an executed transfer of educational rights. Thusly, the complaint must be dismissed, as Parent does not currently have authority to act on Student's behalf, which includes the filing of the complaint on behalf of Student. The complaint is dismissed without prejudice. Student may file her own complaint, or Parent on behalf of Student may re-file a new complaint upon obtaining an executed transfer of educational rights from Student, and alleging same in her complaint.

ORDER

San Leandro Unified School District's Motion to Dismiss is granted. The matter is dismissed without prejudice.

IT IS SO ORDERED.

DATE: March 24, 2019

JUDITH PASEWARK

Administrative Law Judge

Office of Administrative Hearings