

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LINCOLN UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2013090535

ORDER DISMISSING AMENDED
COMPLAINT WITH PREJUDICE

On September 16, 2013, Parent filed a request for due process hearing (complaint) in this matter, naming the Lincoln Unified School District (District). In that complaint Parent asserted violations of the rights of Student, and also alleged that Student is over 18 years of age.

On September 18, 2013, the District filed a Notice of Insufficiency, and on September 20, 2013, OAH found the complaint insufficient and gave Parent leave to amend the complaint.

On October 8, 2013, Parent filed an amended complaint, again purporting to represent his adult son. On November 1, 2013, OAH partially granted a motion to dismiss the allegations of the amended complaint, based on the statute of limitations, and limited the matter to the following single issue: “[W]hether, from September 16, 2011 through the end of the 2012 regular school year, District had a duty to provide a FAPE [free appropriate public education] while Student was expelled, and whether District did not meet that duty.”

Under the Individuals with Disabilities Education Act, a disabled student succeeds to his own educational rights when he reaches the age of 18 years, unless a statutory exception can be demonstrated. (20 U.S.C. § 1415(m); Ed. Code, § 56041.5.) On November 7, 2013, Division Presiding Administrative Law Judge, Judith Kopek, noted that Parent had previously been asked to provide documentation for his claim that he was entitled to assert the rights of his adult son and had failed to do so. Judge Kopek ordered Parent to produce that documentation by November 15, 2013, adding that “[i]f Parent fails to do so, then OAH may dismiss this matter to the extent it raises claims on behalf of Student alone.” (Order Requiring Submission of Proof of Holding Educational Rights for Student or Authorization to File Request for Hearing on Behalf of Student, Nov. 7, 2013.)

Parent has failed to respond to Judge Kopek’s Order or to comply with it. It is now apparent that the only issue remaining in the matter is an issue that only Student can assert,

and that Parent is unable or unwilling to demonstrate that he has any standing to pursue the matter on behalf of his son.¹

Pursuant to Judge Kopec's Order of November 7, 2013, the amended complaint is hereby dismissed with prejudice.

Dated: November 25, 2013

/s/

CHARLES MARSON
Administrative Law Judge
Office of Administrative Hearings

¹ Nothing in this Order is intended to affect any assertion by Student of his own rights.