

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

EDUCATIONAL RIGHTS HOLDER ON BEHALF OF STUDENT,

v.

ESCONDIDO UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2021110186

ORDER DENYING MOTION TO DISMISS AND DENYING

MOTION TO BIFURCATE

FEBRUARY 22, 2022

Student's educational rights holder filed a Request for Due Process Hearing, called complaint, with the Office of Administrative Hearings, called OAH, on November 5, 2021, naming Escondido Union School District. Escondido filed a response to the complaint on November 11, 2022.

On February 1, 2022, Escondido filed a motion for proof of educational rights. Student responded on February 3, 2022, attaching various orders from the California Superior Court identifying the educational rights holders in effect on the date the complaint was filed and thereafter. OAH thereafter issued a Notice of No Action to Escondido's motion on February 7, 2022.

On February 15, 2022, Escondido filed a motion to dismiss the complaint, or in the alternative to bifurcate, based on the issue of standing by the educational rights holder. Student filed an opposition on February 17, 2022. Escondido filed a reply to Student's response on February 18, 2022.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction such as, civil rights claims, section 504 claims, enforcement of settlement agreements, or incorrect parties, special education law does not provide for a summary judgment procedure. Here, the motion to dismiss is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits which are dependent on factual findings by the hearing officer during hearing.

Student was eleven years old and eligible for special education in November 2021 when the complaint was filed. Student was in the foster care system supervised by the Superior Court of California. Based upon Orders issued by the Superior Court, which have been filed with OAH, Student had two educational rights holders on the date the complaint was filed. Student asserts that, as of January 26, 2022, Student's current educational rights holder is Michelle McGowan, who is also an educational advocate.

Escondido asserts that McGowan was not appointed as the sole educational rights holder until January 26, 2022. Escondido therefore challenges McGowan's right to bring claims for Student dating before McGowan was appointed as the sole educational rights holder by the Superior Court and before the complaint was filed. On that basis, Escondido seeks a dismissal of the complaint or alternatively bifurcation on the issue of standing by the educational rights holder.

Escondido's motion to dismiss is denied. Escondido argues that the Superior Court forms upon which Student relied to establish standing were not properly issued

by the Superior Court in compliance with California Rules of Court. That claim is outside of OAH jurisdiction and more appropriately addressed before the Superior Court.

Escondido's arguments as to standing by the educational rights holder, and whether some of Student's claims are barred by the statute of limitations, are defenses that Escondido may raise at hearing and require findings of fact by the hearing officer. The motion to dismiss is denied without prejudice to Student's right to raise those arguments at hearing as affirmative defenses.

Escondido's motion to bifurcate is also denied. Bifurcation does not serve the interests of judicial economy in this case. The issue of standing can be decided at hearing by the hearing officer once the hearing commences on a schedule determined by the hearing officer.

In summary, Escondido's motion to dismiss is denied without prejudice to Escondido's right to raise affirmative defenses of standing and statute of limitations at hearing. Escondido's motion to bifurcate the issue of standing is denied.

IT IS SO ORDERED.

Adrienne L. Krikorian

Adrienne L. Krikorian
Administrative Law Judge
Office of Administrative Hearings