

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024020444

ORDER DENYING MOTION TO DISMISS FOR
EDUCATIONAL RIGHTS

JUNE 12, 2024

On February 9, 2024, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, naming Los Angeles Unified School District.

On June 11, 2024, Los Angeles Unified filed a Motion to Dismiss, alleging that Student's mother filed the complaint but Student is over 18 years old and holds his own educational rights. Los Angeles Unified filed a declaration under penalty of perjury by the principal of the school Student attends, attaching letters of temporary conservatorship issued by the Superior Court of the State of California, County of Los Angeles, appointing Student's father, not mother, as temporary conservator of

Student on April 10, 2024, with an expiration of the temporary conservatorship on May 31, 2024. The principal declared a Los Angeles Unified employee attempted the day before Los Angeles Unified filed the Motion to Dismiss to contact Student's father about any update regarding the conservatorship and had not received a response. Los Angeles Unified asserts the complaint must be dismissed because it was filed by Student's mother, who did not hold Student's educational rights at the time the complaint was filed, nor does she currently hold them.

Student had not yet responded to the motion to dismiss as of the time this Order was prepared. Based on the time sensitivity because of the prehearing conference on June 14, 2024, the motion is considered and denied without Student's response.

Education Code section 56041.5 provides that 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.

In the present matter, both the form request for due process hearing and a separate attachment detailing concerns regarding Student's behavior and needs before the April 2023 individualized education program was developed were both signed by Student himself as well as Student's mother. While the documents acknowledge they were written by Student's mother, Student himself signed them and the case therefore was filed by Student as the holder of his own educational rights.

ORDER

Los Angeles Unified's Motion to Dismiss is denied. The matter shall proceed as scheduled. Student is ordered to appear at the prehearing conference on June 14, 2024, at 10:00 AM. Student's mother and father may also appear to assist Student and provide any additional information regarding the status of a conservatorship.

Kara Hatfield

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings