

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ALAMITOS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024050742

ORDER DENYING MOTION TO DISMISS FOR LACK OF

STANDING

JUNE 11, 2024

On May 17, 2024, Parent filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Los Alamitos Unified School District, called Los Alamitos.

On May 28, 2024, Los Alamitos filed a Motion to Dismiss alleging that Parent did not currently hold educational decision-making rights for Student, who is now 18 years old and not subject to a conservatorship. OAH received no response to the Motion to Dismiss from Student or Parent.

APPLICABLE LAW

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.

The Individuals with Disabilities Education Act, called the IDEA, provides “[a]n opportunity for any party to present a complaint ... with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (*Winkelman ex rel. Winkelman v. Parma City School Dist.*, (2007) 550 U.S. 516, 525, 127 S.Ct. 1994, 167 L.Ed.2d 904, citing 20 U.S.C. § 1415(b)(6).) The right to seek remedies is not limited to violations of a student’s rights under the IDEA. Parents have an independent right to pursue remedies for violations of the IDEA that infringe their own enforceable rights. (*Winkelman, supra*, 550 U.S. at p. 526.)

DISCUSSION

In the present matter, Los Alamitos alleges that Parent lacks standing to bring the instant due process complaint because Student turned 18 years old prior to the filing of the complaint, Student is not a conserved adult, has actively participated in her individualized education program team meetings, and has not assigned Parent her educational decision-making rights. Los Alamitos further argues that, because Parent

no longer holds Student's educational decision-making rights, she is foreclosed from filing a due process complaint. Los Alamitos's arguments are not persuasive.

Student's complaint alleges that Parent placed Student in a residential treatment center in May 2022, and had previously allegedly provided Los Alamitos with the required notice of unilateral placement. Through the instant complaint, Parent is seeking reimbursement for the costs of Student's placement over the May and June 2022. Student was under the age of 18 in May 2022, and Los Alamitos did not argue that Parent did not hold Student's educational decision-making rights at that time.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction, special education law does not provide for a summary judgment procedure. Whether Parent has the right to seek remedies for any claims in this case is a mixed question of law and fact that will be resolved at hearing.

Further, parents have an independent right to pursue remedies for violations of the IDEA that infringe their own enforceable rights. (*Winkelman, supra*, 550 U.S. at p. 526.) Los Alamitos offered no persuasive or binding legal authority establishing that Parent was foreclosed from filing the request for due process hearing in this matter when Student attained the age of legal majority, for claims related to reimbursement for placement and services previously funded by Parent. Prior OAH decisions and orders are not precedential. (5 Cal. Code Regs. §3085.)

At this stage, Los Alamitos failed to establish that Parent lacks standing to bring claims for reimbursement for placement and services provided prior to Student reaching the age of majority. Therefore, Los Alamitos's motion is denied.

ORDER

Los Alamitos's Motion to Dismiss is denied. The matter shall proceed as scheduled.

IT IS SO ORDERED.

Ashok Pathi

Ashok Pathi

Administrative Law Judge

Office of Administrative Hearings