BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PITTSBURG UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018041136 ORDER REQUIRING ADDITIONAL INFORMATION

On April 25, 2018, Parent on behalf of Student filed a request for due process hearing. On May 18, 2018, Pittsburg Unified School District filed a Motion to Dismiss asserting that Student's request for due process hearing should be dismissed on the grounds that insufficient facts were pled to establish that Student's foster parents hold educational rights. On May 22, 2018 Student filed an opposition to the motion. Pittsburg filed a reply to Student's opposition on May 22, 2018.

Although no procedure for a summary judgment motion exists in special education law, the Office of Administrative Hearings has granted motions to dismiss allegations that are facially outside of OAH jurisdiction, e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc. In this instance, a question has been raised as to whether Student's foster parents hold educational rights on Student's behalf. This question of standing must be resolved in order to proceed. Accordingly, Student shall file and serve a copy of the court order granting her foster parents educational rights no later than June 4, 2018. Pittsburg shall file any response to the document filed no later than June 7, 2018. An order shall be issued on Pittsburg's Motion to Dismiss following the receipt of this additional evidence.

IT IS SO ORDERED.

DATE: May 29, 2018

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Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings