

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PLUMAS UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011120543

ORDER DENYING MOTION TO
DISMISS

On December 16, 2011, Mother, on behalf of Student, filed a Due Process Hearing Request¹ (complaint) against the Plumas Unified School District (District). On December 29, 2011, the District filed a motion to dismiss, asserting that Mother did not have the legal authority to file the complaint on behalf of Student, who is an adult. On January 3, 2012, Mother, on behalf of Student, submitted a response that stated that she possessed Student's educational rights.

APPLICABLE LAW

Education Code section 56041.5 provides that when a student reaches the age of 18, the student's parents retain the right to receive notice of procedural safeguards from the school district. All other rights accorded a parent transfer to the student.

DISCUSSION

Student is 19 years of age, and the complaint filed by Mother did not include any factual allegations that Student had transferred his education rights to her. Student's response to the District's motion to dismiss included a copy of a document in which Student transferred his educational rights to Mother. Accordingly, Mother was authorized to file the complaint on behalf of Student and the District's motion to dismiss is denied.²

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

² On January 4, 2012, the Office of Administrative Hearings granted the District's Notice of Insufficiency, and gave Student 14 days to file an amended complaint.

ORDER

The District's motion to dismiss is denied.

Dated: January 6, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings