

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010120581

ORDER GRANTING MOTION TO
DISMISS COMPLAINT

On December 13, 2010, Student's Parent Advocate filed this Request for Due Process Hearing (complaint) on behalf of Student (Student), naming Sacramento City Unified School District (District), as a respondent.

On December 23, 2010, the District filed a Motion to Dismiss the complaint on the grounds that Student's Parent Advocate lacks standing to pursue the claims in the complaint as Student reached age 18, on July 9, 2010.

APPLICABLE LAW

Education Code section 56041.5 provides:

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.

DISCUSSION

Student reached age 18, on July 9, 2010. The complaint fails to allege that Student has authorized his parent to act as his advocate to pursue the complaint, nor does the complaint allege that Student has been placed under a conservatorship which granted his parent educational rights. Further, Student did not sign the complaint if acting on his own behalf. Therefore, the District's request to dismiss the complaint must be granted.

ORDER

Sacramento City Unified School District's Motion to Dismiss the complaint is granted without prejudice. All scheduled mediation and hearing dates are hereby vacated.

IT IS SO ORDERED.

Dated: December 28, 2010

/s/

JUDITH PASEWARK

Administrative Law Judge

Office of Administrative Hearings