

09-121413

IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA

FILED  
DEC 11 2008  
OFFICE OF STATE  
ADMINISTRATIVE HEARINGS

☉

Plaintiff,

Docket No.:

OSAH-DOE-SE-0912734-58-Baxter

v.

FORSYTH COUNTY SCHOOL DISTRICT,  
Defendant.

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LEGAL SERVICES  
GA DEPARTMENT OF EDUCATION

FINAL DECISION  
ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY DETERMINATION

On November 14, 2008, Plaintiff filed a Due Process Hearing Request ("Complaint") contending that the Forsyth County School District violated his rights under the Individuals with Disabilities Education Act ("IDEA") and Section 504 of the Rehabilitation Act of 1973.<sup>1</sup> On November 25, 2008, the Forsyth County School District ("District" or "Defendant") filed *Response, Objection to Sufficiency and Motion to Dismiss for Mootness, or in the Alternative, Motion for Summary Determination of the Forsyth County School District* ("Motion"). On November 25, 2008, this Court found that Plaintiff's Complaint was sufficient and provided Plaintiff until December 10, 2008 to respond to the District's Motion.<sup>2</sup> Plaintiff did not file a Response. For the reasons stated below, Defendant's *Motion for Summary Determination* is **GRANTED**.

I. Findings of Undisputed Material Fact

The only undisputed facts material to this decision are as follows. ☉ was born on ~~08/27/1989~~ 1989 and is 19 years old as of the date of this Order. (*Response, Objection to Sufficiency and Motion to Dismiss for Mootness, or in the Alternative, Motion for Summary Determination of the Forsyth County School District* ("Def.'s Br."), Ex. A.) On May 23, 2008, C.A. graduated from North Forsyth High School with a regular education diploma. (Def.'s Br., Undisputed Facts; Hebert Aff., ¶ 5 and Ex. A.)

II. Summary Determination Standard

<sup>1</sup> In February 2008, Plaintiff's mother filed a similar complaint which was dismissed for lack of standing because Plaintiff had reached the age of majority. ☉ v. Forsyth County School District, OSAH-DOE-SE-0820821-58-Hackney (Mar. 25, 2008).

<sup>2</sup> On December 1, 2008, Plaintiff's mother submitted an email to the Court which appears to be a revised Complaint. Plaintiff has passed the age of majority, and thus, may only represent himself or be represented by counsel. See ☉ v. Forsyth County School District, OSAH-DOE-SE-0820821-58-Hackney (Mar. 25, 2008); 20 U.S.C. 1415(m); O.C.G.A. 15-19-51(a); Ga. Comp. R. & Regs. r. 616-1-2-.34(1). As such, this email and any other filings submitted by Plaintiff's mother on his behalf and as his "advocate" are removed from consideration for purposes of this appeal. Plaintiff's mother may not represent her son in this action as that would constitute the unauthorized practice of law. *Pfeiffer v. State*, 173 Ga. App. 374, 375 (1985).

On motion for summary determination, the moving party must show by supporting affidavits or other probative evidence that there is no genuine issue of material fact for determination. Ga. Comp. R. & Regs. r. ("OSAH Rule") 616-1-2-.15(1). When a motion for summary determination is made and supported, a party opposing the motion may not rest upon mere allegations or denials, but must show by supporting affidavit or other probative evidence that there is a genuine issue of material fact for determination. OSAH Rule 616-1-2-.15(3).

### III. Conclusions of Law

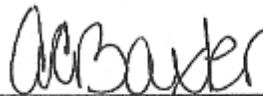
Plaintiff's Complaint alleges IDEA due process issues and as well alleged disability discrimination under Section 504. The Complaint is based, in part, on the District's determination that Plaintiff was not eligible for IDEA or Section 504 accommodations. This Court finds that Plaintiff's Complaint is moot because Plaintiff has graduated from high school.

Under IDEA, "[i]f a student has graduated from high school and does not contest his graduation, the case is moot." T.S. v. Indep. Sch. Dist. No. 54, 265 F.3d 1090, 1092 (10th Cir. 2001), citing 199 F.3d 377, 381 (7th Cir. 2000); Doe v. Eagle-Union Cmty. Sch. Corp., 2 Fed. Appx. 567, 568 (7th Cir. 2001) (finding no jurisdiction to consider merits of Plaintiff's claims when Plaintiff no longer attended school in Defendant school district); Moseley v. Bd. of Educ. of Albuquerque Pub. Schs., 483 F.3d 689, 693 (10th Cir. 2007) (finding there was no equitable remedy available and all claims were moot after a student was no longer entitled to services under IDEA due to graduation). Here, the undisputed evidence demonstrates that Plaintiff graduated high school with a regular high school diploma on May 23, 2008. There is no evidence to indicate Plaintiff has contested his graduation. As such, any services that Plaintiff alleges he deserves under IDEA or Section 504 are no longer the responsibility of the District, whose obligation ceased upon his graduation. There is simply no action that this Court might take which would affect Plaintiff's or the District's rights. See Chastain v. Baker, 255 Ga. 432 (1986) ("A moot case is one which seeks to determine an abstract question which does not arise upon existing facts or rights."). Accordingly, Plaintiff's allegations in the Complaint are moot.

### IV. Order

For the foregoing reasons, the Defendant's Motion for Summary Determination is **GRANTED**. The case is removed from the Court's calendar for January 5 and 6, 2009.

**SO ORDERED, this 11th day of December, 2008.**



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**AMANDA C. BAXTER**  
Administrative Law Judge