



(a) Parent Requests for a Due Process Hearing:

(A) A parent may request a due process hearing in accordance with subsection(3) if the parent does not agree with the identification, evaluation, educational placement of a child, or the provision of a free appropriate education to a child who may be disabled.

(B) The parent, or the attorney representing the child, must provide notice to the school district and to the Department when requesting a hearing. The notice (which remains confidential) must, include:

(i) The child's name and address (or available contact information in the case of a homeless child);

(ii) The name of the school the child is attending;

(iii) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and

(iv) A proposed resolution of the problem to the extent known and available to the party at the time.

OAR 581-015-2350<sup>2</sup> provides for challenges to the sufficiency of a hearing request and provides:

(1) A written request for hearing will be deemed sufficient unless the party receiving the request notifies the administrative law judge and the other party in writing, within 15 days of receipt of the hearing request, that the receiving party believes the notice does not meet the requirements of OAR 581-015-2345.

(2) Within five days of receiving notice that a party is objecting to the sufficiency of the other party's hearing notice, the administrative law judge must make a determination on the face of the hearing request of whether the hearing request meets the requirements of OAR 581-015-2345, and must immediately notify the parties in writing of that determination.

(3) A party may amend its hearing request only if:

(A) The other party consents in writing to the amendment and is given the opportunity to resolve the hearing request through a resolution meeting; or

(B) The administrative law judge grants permission, except that this permission may only be granted at any time not later than five days before a

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<sup>2</sup> The requirements of this rule are nearly identical to the provisions of 34 CFR §300.508(d).

due process hearing occurs.

(4) If a party files an amended hearing request, the applicable timelines for the resolution session and resolution period begin again with the filing of the amended hearing request.

20 U.S.C. §1415(b)(7)(A)(ii)(III) and OAR 581-015-2345(1)(a)(B)(iii) require that in a complaint, parents provide a “description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem.” Similarly, 20 U.S.C. §1415(b)(7)(A)(ii)(IV) and OAR 581-015-2345(1)(a)(B)(iv) require that in the complaint, parents provide a “proposed resolution of the problem to the extent known and available to the party at the time.” The purpose of these requirements is to give the other side (in this case, the District) the “who, what, when, where, and why” details about the reasons the parent is requesting a hearing. This detailed information allows the parties to resolve the issues through mediation or to prepare for a due process hearing. A due process complaint that lacks sufficient factual detail about the nature of the dispute impedes both resolution and an effective due process hearing because it does not provide the other party with fair notice and makes it difficult or impossible for the other party to respond to the complaint in any substantive way.

When, as here, a school district challenges the request for hearing, the ALJ must determine from the face of the hearing request (in this case, the Complaint) whether it meets the notice requirements set forth in OAR 581-015-2345. OAR 581-015-2350(2). If the hearing request meets the requirements of the administrative rules, the matter will proceed to hearing. Conversely, if the hearing request fails to meet the basic requirements, the ALJ must dismiss the hearing request. OAR 581-015-02350(3).

Here, as noted above, the Complaint raises concerns about scheduling and parental access to IEP meetings and a failure of the District to provide the help Student requires. The Complaint, in its entirety, consists of a two-page Request for Due Process Hearing form. It asserts the following concerns:

Recent violations of FAPE & IDEA. [D]enial from school to provide the help [Student] needs and/or schedule an IEP meeting to discuss. [T]oday they denied us access to an IEP meeting.

Complaint at 1. Parents checked boxes that their concerns involved the identification, evaluation, educational placements, and provision of FAPE to Student, but provides no additional factual information about the alleged violations. As a remedy for the alleged violation(s), Parents ask for:

[D]ue process to bring parties together to create a plan that will help [Student’s] educational goals. Right now we feel her school is not focused on her success and getting her caught up to grade level.

*Id.* at 2.

In its Motion, the District contends the Complaint does not meet the minimum statutory requirements, as it is completely devoid of any specific violations of the IDEA (the requisite “who, what, when, where, and why” details) and does not provide sufficient factual information to allow the District to meaningfully respond. For the reasons set out below, the District’s challenge has merit.

The Complaint fails to provide sufficient factual information to determine the time period that would be at issue (stating only that there were “recent” violations). Furthermore, there are no specific events alleged that could constitute a violation of the IDEA.<sup>3</sup> While the Complaint alleges the District denied Student the “help” Student needs to reach educational goals, there are no facts about the help needed, nor any details regarding Student’s goals and how the District failed to provide the help. Likewise, the Complaint alleges that the District is not focused on Student’s success or getting Student “caught up to grade level,” but there are no facts to support this allegation. The Complaint fails to explain what “success” would look like, or how the District could get Student caught up to grade level. Indeed, from the face of the Complaint, it is unclear whether Student has an IEP, what that IEP entails, whether Parents believe any IEP is sufficient (and if it is not, what is lacking), and whether the District is following the IEP.<sup>4</sup>

Similarly, the Complaint is almost completely devoid of factual information pertaining to the bases for the remedies requested. The Complaint requests “due process” to create a plan to help Student’s educational goals. Complaint at 2. However, it is unclear what Parents mean by “due process” in this context, or what a sufficient plan would entail to help Student. From the Complaint, it is impossible for the District, or this tribunal, to determine how the District’s alleged failure(s) could be remedied.

For the above-stated reasons, the Complaint does not meet the sufficiency standards for hearings brought under the IDEA. Pursuant to OAR 581-015-2350(3), Parents may amend a hearing request only if: (A) the District consents<sup>5</sup> or (B) the ALJ grants permission. Pursuant to OAR 581-015-2350(4), if a party files an amended hearing request, the applicable timelines for the resolution session and resolution period begin again with the filing of the amended hearing request. Pursuant to OAR 581-015-2350(3), this ruling and order grants Parents leave to amend if Parents deems it appropriate. However, any such amendment to the Complaint herein must be filed within 14 calendar days of this ruling and order.

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<sup>3</sup> While the Complaint alleges that Parents were denied access to an IEP meeting “today,” there is insufficient information in the Complaint to determine if an IEP meeting was scheduled and Parents were not allowed to attend, or whether Parents requested an IEP meeting and the District declined the request.

<sup>4</sup> The District argues that the portion of the Complaint that discusses denial of access to an IEP meeting is “unclear and \* \* \* insufficient” because the District held an IEP meeting, with parental involvement, on May 1, 2024. Motion at 3. In an email dated May 8, 2024, Parents allege that a full IEP review did not occur, and that the documents associated with it were manufactured and misrepresented to Parents. The District denies these allegations. However, resolution of this dispute is unnecessary because the alleged meeting occurred *after* the Complaint was filed. Moreover, at issue here is whether the Complaint, *on its face*, provides adequate details to meet the pleading requirements of OAR 581-015-2345(1)(a).

<sup>5</sup> In its Motion, the District requests that Parent’s Complaint be dismissed with prejudice. That request is denied.

## **RULING and ORDER**

The District's Motion to Determine Sufficiency of Complaint is **GRANTED**. The due process complaint filed by Parents on April 24, 2024 is insufficient and therefore **DISMISSED** without prejudice.

Kate Triana

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Senior Administrative Law Judge  
Office of Administrative Hearings

## **APPEAL PROCEDURE**

**NOTICE TO ALL PARTIES:** If you are dissatisfied with this Order you may, within 90 days after the mailing date on this Order, commence a nonjury civil action in any state court of competent jurisdiction, ORS 343.175, or in the United States District Court, 20 U.S.C. § 1415(i)(2). Failure to request review within the time allowed will result in **LOSS OF YOUR RIGHT TO APPEAL FROM THIS ORDER.**

## **SERVICEMEMBERS' CIVIL RELIEF ACT**

Unless otherwise stated in this order, the Office of Administrative Hearings (OAH) has no reason to believe that a party to this proceeding is subject to the Servicemembers' Civil Relief Act (SCRA). If a party to this proceeding is a servicemember who did not appear for the hearing, within the servicemember's period of service, or 90 days after their termination of service, that party should immediately contact the agency to address any rights they may have under the SCRA.

**CERTIFICATE OF MAILING**

On May 13, 2024, I mailed the foregoing RULING GRANTING DISTRICT'S MOTION FOR DETERMINATION OF SUFFICIENCY OF REQUEST FOR HEARING AND FINAL ORDER OF DISMISSAL in OAH Case No. 2024-ABC-06492 to the following parties.

By: Electronic and Certified Mail

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Elizabeth Polay, Attorney at Law  
Garrett Hemann Robertson P.C.  
P.O. Box 749  
Salem OR 97308  
Email: [epolay@ghrlawyers.com](mailto:epolay@ghrlawyers.com)

By: Certified Mail

Susan Halliday, Superintendent  
Philomath School District  
1620 Applegate St  
Philomath OR 97370

**BY ELECTRONIC MAIL:**

Mike Franklin, Legal Specialist  
Department of Education  
255 Capitol Street NE  
Salem, OR 97310-0203

Lucy M Garcia  
Hearing Coordinator  
Office of Administrative Hearings