

The Department has promulgated administrative rules that mirror the federal regulations applicable to hearings under the IDEA. OAR 581-015-2345 identifies requirements for hearing requests and responses to such requests under the IDEA in Oregon and provides, in relevant part:

(1) Request for Hearing:

(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.

See also 20 USC § 1415(b)(7)(A) (containing the IDEA provision upon which the above rule is based).

OAR 581-015-2350 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 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.

See also 34 CFR § 300.508(d) (containing nearly identical requirements).

When, as here, a school district challenges the sufficiency of a due process complaint, the ALJ must determine from the face of the complaint whether it meets the notice requirements set forth in OAR 581-015-2345. OAR 581-015-2350(2). If the complaint meets the requirements of the administrative rules, the matter will proceed to hearing. Conversely, if the complaint fails to meet the basic requirements, the ALJ must dismiss the hearing request. OAR 581-015-2350(3). For the following reasons, a review of the complaint challenged by the District shows that dismissal is warranted.

Student's Address

Parent declined to provide Student's address as required by OAR 581-015-2345(1)(a)(B)(i). In the relevant field on the complaint form, Parent instead wrote "Address Confidentiality Program participant." Parent may well have good reason to wish to keep Student's address confidential. However, under OAR 581-015-2345(1)(a)(B)(i) and OAR 581-015-2350(2), its absence renders the complaint insufficient.

Student's place of residence is a fundamental consideration in whether and to what extent the District is obliged to provide the requested services to student. *See, e.g.*, ORS 343.221 (requiring that school district special education programs meet the needs of all "*resident* children with disabilities" (emphasis added)). Student's place of residence determines whether Parent has standing to file the present complaint. Moreover, the District, the Department, and the OAH are obligated to keep all Student's personal identifying information, necessarily shared in the course of IDEA litigation (including a child's name, sex, date of birth, and address), strictly confidential. *See* OAR 581-051-2375 (4) (requiring that the ALJ's decision be written "in such a manner so that personally identifiable information will not be disclosed."). Therefore, to the extent that Parent's decision to fail to disclose student's address may have a legitimate basis, it does not prevent the dismissal of the complaint for failure to meet the requirements of OAR 581-015-2345(1)(a)(B)(i).

Description of the Nature of the Problem

As explained above, the complaint must contain 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.” OAR 581-015-2345(1)(a)(B)(iii). The complaint clearly alleges that the following two District decisions, contained within its September 18, 2024, Prior Notice of Special Education Action, resulted in a denial of FAPE:

1. The District’s refusal to provide “a qualified support person who is trauma-informed and has Crisis Prevention Institute (CPI) or similar certification to assist Parent with getting [Student] * * * ready for school, out the door, and into secure transportation;” and
2. The District’s refusal to provide a “dedicated, one-to-one support person while [Student is] at school * * *.”

Exhibit D1 at 4, 6; *see also* Exhibit D1 at 2 (listing “Proposed Solution[s]” on the hearing request form).

If the complaint intends to raise only the above two issues, it arguably meets the requirement of OAR 581-015-2345(1)(a)(B)(iii). However, the complaint contains a variety of other allegations and/or factual corrections to assertions made by the District in the September 18, 2024, Prior Notice of Special Education Action. The complaint does not specify whether these other allegations and corrections constitute additional bases for relief under the IDEA. These other allegations and corrections also lack the level of detail necessary to understand the problem described. Therefore, it is not possible to determine the full extent of Parent’s IDEA claims against the District from the face of the complaint.

For example, the complaint alludes multiple times to issues with Student’s placement. *See, e.g.*, Exhibit D1 at 2 (proposing that the District “[u]phold pendant placement per Pennsylvania court order”); *Id.* at 3 (referencing a psychiatrist recommendation that Student be moved from current placement to “an in-patient placement”). However, the complaint does not directly challenge Student’s placement or specify that Student’s current placement amounts to a denial of FAPE. The complaint also lacks specific details about the origin and duration of Student’s current placement and whether or when the District officially proposed a change to Student’s placement. In other words, inasmuch as Parent seeks to challenge Student’s placement, the complaint fails to include either a “description of the nature of the problem” or “facts relating to the problem.” OAR 581-015-2345(1)(a)(B)(iii).

Similarly, in contradiction to an assertion within the September 18, 2024, Prior Notice of Special Education Action, the complaint alleges that “Parent did not request [the District] to provide inter-district transfer as a function of the IEP. Inter-district transfer was requested months ago and Parent was denied access to the application.” Exhibit D1 at 7. Neither this assertion nor any other assertion in the complaint actually requests redress for a refusal to grant Student’s transfer. However, the complaint implies that the failure to grant Student’s transfer constituted a denial of FAPE in multiple ways. First, the complaint challenges decisions within the September 18, 2024, Prior Notice of Special Education Action, which included a decision not

to permit Student’s transfer as part of the IEP process. Exhibit D1 at 10-11. Second, although Parent admits to residing *outside* the District, Parent nevertheless seeks redress *from* the District. Exhibit D1 at 7. To the extent that Parent seeks to challenge a failure to permit Student’s transfer, this allegation would need to be clearly asserted and factually supported to survive a challenge to the sufficiency of the complaint.

Other examples of failures to meet the requirement of OAR 581-015-2345(1)(a)(B)(iii) include whether and for what specific period Parent believes District failed to provide transportation it was obligated to provide under the IDEA, and whether the allegation of a “shortened school day” has any basis other than the denial of pre-transportation assistance and/or safe transportation. Either the complaint has omitted critical information regarding these allegations, or Parent does not intend to pursue these as separate bases for relief under the IDEA.³ Either way, their inclusion without elaboration obscures the scope of the complaint, which contributes to Parent’s failure to meet the requirements of OAR 581-015-2345(1)(a)(B)(iii).

To be deemed sufficient, a complaint made under the IDEA must specifically enumerate the IDEA violations it alleges and provide adequate supporting details regarding any alleged IDEA violations, including, *e.g.*, a timeline of relevant events. Procedurally, the complaint serves to put the District on notice, both to potentially facilitate a resolution of the matter without hearing or, should the parties fail to reach an agreement, to define the scope of the hearing itself. A vaguely drafted complaint—such as one that implies, but does not explicitly state, where a district fell short of its IDEA obligations—thus implicates both judicial economy and basic fairness.

The complaint here failed to provide adequate notice of the nature of the problem to facilitate meaningful engagement from the District and failed to meet the requirements of OAR 581-015-2345(1)(a)(B). The District’s Sufficiency Challenge of the complaint must be granted.

A party may amend the due process complaint only if the other party consents in writing or if the ALJ grants permission. OAR 581-015-2350(3). The ALJ grants Parent permission to amend the due process complaint. Any such amendment must be filed within 14 calendar days of the date of this Ruling and Order.

RULING and ORDER

The District’s Motion for Determination of Sufficiency of Request for Hearing is **GRANTED**. The due process complaint filed by Parent on October 7, 2024 is insufficient and therefore **DISMISSED**.

³ Parent alleges that the District is “in violation of SB 819” and requests that “hours be made up per SB 819 requirements.” Exhibit D1 at 8. Senate Bill 819, enacted in 2023, modifies the requirements for abbreviated school day programs. Section 5 of SB 819 includes a separate enforcement mechanism for alleged violation of the Act’s requirements pertaining to a student’s placement in an abbreviated school day program. However, there is nothing in SB 819 that gives a parent a private right of action enforceable under the due process hearing provisions of ORS 343.165 and OAR 581-015-2345.

The ALJ hereby grants leave for Parent to file an amended due process complaint. If Parent elects to amend the complaint, the amendment must be filed no later than 14 days from the date of this Ruling and Order. If Parent elects to file an amended due process complaint, all relevant timelines will begin anew as of the date of filing.

Bradley A. Schmidt

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 October 15, 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-06730 to the following parties.

By: Electronic and Certified Mail

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