

The Department has promulgated administrative rules that mirror the federal regulations applicable to hearings under the IDEA. OAR 581-015-2345(1) identifies requirements for due process complaints under the IDEA in Oregon and provides, in relevant part:

(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 governs challenges to the sufficiency of a due process complaint 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 submits a timely challenge to 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.

Core Considerations within the IDEA

OAR 581-015-2040 provides the general mandate that all children with disabilities receive a free, appropriate, public education (FAPE). ORS 343.157 and OAR 581-015-2100 through OAR 581-015-2180 require, and provide parameters for, school districts to evaluate students for disabilities that would qualify them for special education under the IDEA. According to OAR 581-015-2000(5)(a),

“[c]hildren with disabilities” or “students with disabilities” means children or students evaluated in accordance with OAR 581-015-2100 through 581-015-2180 as having autism spectrum disorder; speech or language impairment; deafblindness; developmental delay; emotional behavior disability; deaf or hard of hearing; intellectual disability; orthopedic impairment; other health impairment; specific learning disability; traumatic brain injury; or visual impairment, including blindness, and who, by reason thereof, need special education and related services.

See also OAR 581-015-2000(5)(b) (defining each of the disabilities named above).

To effectuate the purposes of the IDEA, schools develop and implement for each qualifying child an individualized educational plan (IEP), defined as “a written statement of an educational program which is developed, reviewed, revised and implemented for a school-aged child with a disability.” OAR 581-015-2000(16). As expressed by the United States Supreme Court, “the IEP is the centerpiece” of the IDEA’s “education delivery system for disabled

children.” *Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 US 386, 391 (2017) (quoting *Honig v. Doe*, 484 US 305, 311 (1988)) (internal quotes omitted). OAR 581-015-2200 mandates specific contents for the IEP, including “[a] statement of the specific special education and related services and supplementary aids and services * * * to be provided to the child,” and “[a]n explanation of the extent, if any, to which the child will not participate with children without disabilities in * * * regular class and activities[.]” OAR 581-015-2200(1)(d); OAR 581-015-2200(1)(f).

School districts must determine a student’s educational placement, *i.e.*, the student’s “instruction in regular classes, special classes, special schools, home instruction [or] instruction in hospitals [or] institutions,” based upon the contents of the IEP. OAR 581-015-2245(1); OAR 581-015-2250(1)(c). OAR 581-015-2250(1)(b) requires that special education students receive education in the “least restrictive environment,” in other words, “[t]o the maximum extent appropriate, * * * with children who do not have a disability[.]” OAR 581-015-2240(1).

Both the IEP and the special-education student’s educational placement must receive reevaluation by the student’s “IEP Team”—a committee of interested persons, including teachers and parents—at least once per year. OAR 581-015-2210(1)(a), (c) – (d); OAR 581-015-2225(1); OAR 581-015-2250(1)(d). As such, a student receiving proper IDEA services will have annually updated information about educational needs and services, as well as the setting in which the student shall receive instruction and the reasons for that placement decision.

The Information Provided in the Complaint

Parent drafted the complaint using a form created by the Department. The form provides the following prompt, followed by a four-line space for entry of a response:

Concerns[:] Describe the IDEA violation and the specific facts that relate to that violation. The complaint must describe a concern(s) that happened within the last 2 years prior to the date that the complaint is received. Include dates, names and locations. (Attach additional pages if needed.)

Complaint at 1 (bold text in original). Parent responded as follows:

I disagree with the suggested change of placement as this would not be the least restrictive environment for [Student]. I believe FAPE (free & appropriate public education) can take place for [Student] in [Student’s] current/home school district. [Student] is not getting the proper support.

Id. Parent did not provide any further information related to any alleged violations of the IDEA.

The form used by Parent also includes the prompt, “**Proposed Solution:** (Attach additional pages if needed),” followed by a four-line space for a response. *Id.* at 2 (bold text in original). Parent responded, “Have [Student] stay at [Student’s] current/home school district.” *Id.* Parent provided no elaboration.

Analysis

Parent's responses in the Department form communicate a disagreement with the District over Student's placement. But, without more, the complaint fails to adequately "includ[e] facts relating to the problem" as required by OAR 581-015-2345(1)(a)(B)(iii).

For example, Parent challenges a "suggested change of placement" but does not state what change was suggested, when the change was suggested, or who made the suggestion. Parent does not explain the context for the suggestion, *i.e.*, whether it came during an IEP Team meeting and/or in response to a specific incident or change in Student's circumstances. Indeed, Parent does not include any information about Student's circumstances, such as the nature of Student's disability, the contents of Student's IEP, and/or what services Student is receiving or has received previously from the District. Parent leaves ambiguous whether the District has already changed Student's placement, is currently taking active steps to change Student's placement, or, as implied by the word "suggested," the District has merely raised the topic of a possible change for consideration. Finally, Parent alleges that Student "is not getting * * * proper support" but does not state what additional support Student needs and/or whether the omission of supports deviates from the contents of Student's IEP.

While it would be unfair to impose a hyper-technical pleading requirement upon Parent, I am persuaded that the contents of the complaint fall short of the requirements of OAR 581-015-2345(1)(a)(B)(iii), and a redrafted complaint is necessary. As explained above, the services and educational placements provided for by the IDEA relate to the specific needs of Student, but those needs have not been explained. Despite the essential role of the IEP, the contents of Student's IEP remain unknown, as does whether or how the IEP relates to Parent's dispute with the District. The complaint raises Student's placement but does not describe Student's placement history, current placement, or the objected-to placement. The complaint also raises the adequacy of District supports but does not describe what supports have been provided by the District, how these supports have fallen short, what supports Parent believes the District should provide, or whether the lack of adequate supports represents a deviation from the mandates of Student's IEP. The complaint has included no timeline of relevant events, such as when IEP Team meetings were held, when the District suggested a placement change, and when the event that triggered this suggestion occurred. The complaint thus failed to "includ[e] facts relating to the problem" alleged. OAR 581-015-2345(1)(a)(B)(iii).

The determination that the complaint is insufficient and must be dismissed cannot be altered by Parent's filing of objections to the District's sufficiency challenge. Parent included additional information in her objection, which could fill in some or all the gaps that make the complaint inadequate. However, under OAR 581-015-2350(2), a determination regarding the sufficiency of a due process hearing complaint must be based solely upon the face of the complaint, not upon additional information provided separately. 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. Because of the role the complaint plays in setting the parameters for resolution of the matter, a complaint made under the IDEA must specifically enumerate the IDEA violations it alleges and provide adequate supporting details regarding these violations. A vaguely drafted complaint—

such as the one filed by Parent here—implicates both judicial economy and basic fairness. 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 November 1, 2024 is insufficient and therefore **DISMISSED**.

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 November 18, 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-06776 to the following parties.

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