

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
OREGON DEPARTMENT OF EDUCATION**

IN THE MATTER OF THE)	FINAL ORDER OF DISMISSAL
EDUCATION OF:)	
)	OAH Case No. 2025-ABC-07017
STUDENT AND DAVID DOUGLAS)	Agency Case No. DP 25-106
SCHOOL DISTRICT 40)	
)	

HISTORY OF THE CASE

On March 25, 2025, [REDACTED] on behalf of Student, filed a request for a due process hearing (Hearing Request or Complaint) with the Oregon Department of Education (Department). In that complaint, [REDACTED] alleged that the David Douglas School District 40 (the District) engaged in substantive and procedural violations of the Individuals with Disabilities Education Act (IDEA), 20 USC sections 1400 through 1482, and its corresponding administrative rules. The Department referred the complaint to the Office of Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge (ALJ) Joe L. Allen to preside over the matter.

On March 27, 2025, the District filed a timely request for reassignment of ALJ. On April 9, 2025, OAH Presiding ALJ Monica A. Whitaker granted the District's request, and the matter was reassigned to Senior ALJ Bradley A. Schmidt.

On April 3, 2025, the District filed a Motion for Order to Show Cause RE: Parent Standing (Motion), with attached supporting documents marked as Exhibits D1 through D6. In the Motion and supporting documents, the District alleges that [REDACTED] lacks standing to request a due process hearing for Student. ALJ Schmidt granted [REDACTED] until April 15, 2025, to file a response and any supporting documents.

On April 15, 2025, [REDACTED] filed Biological Parent's Response to Motion for Order to Show Cause RE: Parent Standing (Response). She also filed supporting documents marked as Exhibits A through H, J through O, P, P.0, P.1, P.1a, P.2, P.3, and Q through S.

ISSUE

Should the request for hearing be dismissed? OAR 581-015-2000(22)(a); OAR 581-015-2345(1)(a).

DOCUMENTS CONSIDERED

The ALJ considered the Complaint, the Motion with its accompanying exhibits, and the Response with its accompanying exhibits.

FINDINGS OF FACT

- (1) [REDACTED] is the biological parent of Student. (Ex. D5 at 1; Response at 1.)
- (2) Since at least June 27, 2024, Student has been a ward of the court and in the temporary legal custody and guardianship of the Oregon Department of Human Services (ODHS) for substitute care. (Exs. D2 at 1, D4 at 1-5, D5 at 1-5, D at 1, E at 1, K at 2-3.) Student has been placed with a relative foster parent. (Exs. D2 at 1, D4 at 1, D5 at 1.)
- (3) On March 25, 2025, [REDACTED] filed the Complaint as its sole complainant. (Complaint at 1.)

CONCLUSION OF LAW

The request for hearing must be dismissed.

OPINION

In Oregon, OAR 581-015-2345 sets the parameters for the right to request a due process hearing under the IDEA. According to OAR 581-015-2345(1)(a)(A), “[a] *parent* may request a due process hearing * * * 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.” (Emphasis added.)

For purposes of the above rule, OAR 581-015-2000(22) defines “parent” as follows:

“Parent” means:

(a) One or more of the following persons:

(A) A biological or adoptive parent of the child;

(B) A foster parent of the child;

(C) A legal guardian, other than a state agency;

(D) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or

(E) A surrogate parent who has been appointed in accordance with OAR 581-

015-2320, for school-age children, or 581-015-2760 for preschool children.

(b) Except as provided in subsection (c), if more than one party is qualified under subsection (a) to act as a parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent *unless the biological or adoptive parent does not have legal authority to make educational decisions for the child*.

(c) If a judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make educational decisions on behalf of a child, then that person will be the parent for special education purposes.

(Emphasis added.)

ORS chapter 419B contains the statutes governing juvenile dependency. ORS 419B.373 states, in relevant part:

A person, agency or institution having legal custody of a ward has the following duties and authority:

* * * * *

(3) To provide the ward with care, education and discipline.

Under the above statute and rules, [REDACTED] has no legal authority to file a due process hearing request on Student's behalf. Student is in the guardianship and custody of ODHS and resides with a foster parent. Because [REDACTED] is attempting to act as parent by filing the Complaint, the provisions of OAR 581-015-2000(22)(b) apply. That rule presumes that [REDACTED] as biological parent, has the right to act as parent only if she has the authority to make educational decisions on Student's behalf. She does not. Because Student is a ward of the court in the legal custody of ODHS, and because there is no evidence of a court order authorizing any other individual to make Student's educational decisions, ODHS has authority over Student's education. [REDACTED] therefore lacks legal standing to raise an IDEA claim for Student or to proceed in the present matter.

ORDER

The March 25, 2025, request for due process hearing filed by [REDACTED] on behalf of Student against David Douglas School District 40 is dismissed with prejudice.

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 April 22, 2025, I mailed the foregoing Final Order of Dismissal in OAH Case No. 2025-ABC-07017 to the following parties.

By: Electronic and Certified Mail

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

Ken Richardson, Superintendent
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Email: Ken_richardson@ddsd40.org

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On April 15, 2025, [REDACTED] filed Biological Parent's Response to Motion for Order to Show Cause RE: Parent Standing (Response). She also filed supporting documents marked as Exhibits A through H, J through O, P, P.0, P.1, P.1a, P.2, P.3, and Q through S.

ISSUE

Should the request for hearing be dismissed? OAR 581-015-2000(22)(a); OAR 581-015-2345(1)(a).

DOCUMENTS CONSIDERED

The ALJ considered the Complaint, the Motion with its accompanying exhibits, and the Response with its accompanying exhibits.

FINDINGS OF FACT

- (1) [REDACTED] is the biological parent of Student. (Ex. D5 at 1; Response at 1.)
- (2) Since at least June 27, 2024, Student has been a ward of the court and in the temporary legal custody and guardianship of the Oregon Department of Human Services (ODHS) for substitute care. (Exs. D2 at 1, D4 at 1-5, D5 at 1-5, D at 1, E at 1, K at 2-3.) Student has been placed with a relative foster parent. (Exs. D2 at 1, D4 at 1, D5 at 1.)
- (3) On March 25, 2025, [REDACTED] filed the Complaint as its sole complainant. (Complaint at 1.)

CONCLUSION OF LAW

The request for hearing must be dismissed.

OPINION

In Oregon, OAR 581-015-2345 sets the parameters for the right to request a due process hearing under the IDEA. According to OAR 581-015-2345(1)(a)(A), “[a] *parent* may request a due process hearing * * * 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.” (Emphasis added.)

For purposes of the above rule, OAR 581-015-2000(22) defines “parent” as follows:

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(E) A surrogate parent who has been appointed in accordance with OAR 581-

015-2320, for school-age children, or 581-015-2760 for preschool children.

(b) Except as provided in subsection (c), if more than one party is qualified under subsection (a) to act as a parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent *unless the biological or adoptive parent does not have legal authority to make educational decisions for the child*.

(c) If a judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make educational decisions on behalf of a child, then that person will be the parent for special education purposes.

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A person, agency or institution having legal custody of a ward has the following duties and authority:

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Under the above statute and rules, [REDACTED] has no legal authority to file a due process hearing request on Student's behalf. Student is in the guardianship and custody of ODHS and resides with a foster parent. Because [REDACTED] is attempting to act as parent by filing the Complaint, the provisions of OAR 581-015-2000(22)(b) apply. That rule presumes that [REDACTED] as biological parent, has the right to act as parent only if she has the authority to make educational decisions on Student's behalf. She does not. Because Student is a ward of the court in the legal custody of ODHS, and because there is no evidence of a court order authorizing any other individual to make Student's educational decisions, ODHS has authority over Student's education. [REDACTED] therefore lacks legal standing to raise an IDEA claim for Student or to proceed in the present matter.

ORDER

The March 25, 2025, request for due process hearing filed by [REDACTED] on behalf of Student against David Douglas School District 40 is dismissed with prejudice.

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.**

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ORDER

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