

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

IN THE MATTER OF THE
EDUCATION OF:

**STUDENT AND OREGON
DEPARTMENT OF EDUCATION**

) **RULING GRANTING OREGON**
) **DEPARTMENT OF EDUCATION'S**
) **MOTION FOR DETERMINATION OF**
) **SUFFICIENCY OF REQUEST FOR**
) **HEARING AND FINAL ORDER OF**
) **DISMISSAL**
)
) OAH Case No. 2025-ABC-07138
) Agency Case No. DP 25-113
)

HISTORY

On May 27, 2025, Parent, on behalf of Student, filed a complaint against the Oregon Department of Education (Department) alleging systemic failures within the Department resulting in delays to the Department's investigative process. ODE treated the complaint as a request for a due process hearing (hearing request). In the complaint, Parent alleges the Department violated sections of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C § 1400 *et seq.* and the corresponding administrative rules by failing to issue complaint decisions within the statutorily prescribed period. On May 27, 2025, the Department referred the complaint to the Office of Administrative Hearings (OAH), which scheduled a prehearing conference for June 27, 2025. The OAH assigned Senior Administrative Law Judge (ALJ) Joe L. Allen to preside at hearing.¹

On June 11, 2025, Assistant Attorney General (AAG) Jake Hogue, counsel for the Department, submitted a letter brief challenging Parent's complaint as improper because the Department is not a proper party for due process complaints under the IDEA. Upon review, the ALJ has determined the Department's filing should be treated as a challenge to the sufficiency of Parent's hearing request pursuant to OAR 581-015-2350 as the Department asserts that portions of Parent's request for hearing fail to meet the requirements of OAR 581-015-2345.

¹ On June 6, 2025, the Department filed a Request for Change of Administrative Law Judge (recusal motion) pursuant to OAR 471-060-0005 with the OAH. Prior to issuance of a ruling on the Department's request, the OAH received the filing in issue. The assigned ALJ remains responsible for ruling on any filings received until the OAH reassigns this matter to another ALJ. Because this order dismisses Parent's request for hearing with prejudice, the recusal motion is moot. As such, the OAH will not issue a ruling on the Department's June 6, 2025 request.

DISCUSSION

Under Oregon law, parents and/or students may request due process hearings to challenge a school district's identification, evaluation, educational placement, or provision of a free and appropriate public education (FAPE) to students who qualify for specially designed instruction and/or related services under the IDEA.

The Department has promulgated administrative rules that mirror the federal regulations applicable to hearings under the IDEA. OAR 581-015-2345² 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.

Emphasis added.

OAR 581-015-2350³ 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

² The requirements of OAR 581-015-2345(1)(a)(B) mirror the federal requirements identified in 20 U.S.C. §1415(b)(7)(A).

³ The requirements of this rule are nearly identical to the provisions of 34 CFR §300.508(d).

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.

When, as here, the party receiving the hearing request challenges the sufficiency of that request, the ALJ must determine from the face of the hearing request whether it meets the notice requirements set forth in OAR 581-015-2345.⁴ 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 581-015-2350(3).

As the Department correctly points out in its challenge, the IDEA and corresponding state statutes and rules permit, *inter alia*, parents and/or students to request a due process hearing to challenge a school district's identification, evaluation, educational placement, or the provision of a free appropriate public education to a disabled student. OAR 581-015-2345(1)(a)(A). Parent's complaint in this matter alleges systemic failures within the Department resulting in complaint investigation orders being issued outside federally required 60-day period. Nothing in the Parent's complaint asserts a failure, on behalf of the Department, to identify, evaluate, properly place, or the ensure provision of a free appropriate education to Student. Instead, the complaint alleges that the Department failed to timely issue findings and orders following a Department investigation of a named school district. This subject matter is outside the scope of due process hearings identified above and outside the OAH's jurisdiction.

Moreover, as this tribunal has previously established, the only proper parties to a due

⁴ On June 11, 2025, Parent filed a request to respond to the Department's sufficiency challenge. OAR 581-015-0350 requires the ALJ to determine sufficiency from the face of the due process complaint. As such, no response is appropriate or necessary.

process hearing under the IDEA are the parent(s) and/or student and the school district responsible for the provision of special education and related services to the student. *See In the Matter of the Education of Student and Oregon Department of Education, Order Denying Reconsideration, Case No. DP 11 – 102B* at 1-2(April 14, 2011); and *Letter from John Mann, Presiding Administrative Law Judge, Regarding Case No. DP 15-114* (Oct 15, 2015); *see also Chavez v. New Mexico Pub. Educ. Dep’t*, 621 F.3d 1275 at 1283 (10th Cir. 2010) (upholding the hearing officer’s and state educational agency’s (SEA) determinations that the SEA was exempt from the administrative hearing process – and thus not a proper party to an IDEA proceeding – because it was not the public agency involved in providing educational services under the student’s individualized education program (IEP) under the IDEA.). For this reason, Parent’s complaint must be dismissed as insufficient under OAR 581-015-2345(1)(a)(A) and OAR 581-015-2350(2) as to the Department.

As set forth above, OAR 581-015-2345(1)(a)(B) requires a parent filing a due process complaint to provide notice of the complaint to the school district *and* the Department. Parent’s complaint expressly states that the claims therein apply only “to ODE independently” and that a copy of the complaint was not provided to the resident school district (listed only as PPSD). Complaint at 4. The language of applicable administrative rule is compulsory, rather than discretionary, and requires Parent to provide the resident school district and the Department with notice of the complaint. Because Parent did not notify the resident school district as required by OAR 581-015-2345(1)(a)(B), there is no proper party to proceed to hearing.

For the above reasons, Parent’s complaint must be dismissed. Under OAR 581-015-2350(3), a party may amend its complaint only if the other party consents in writing or the ALJ grants permission. Because there is no proper party identified on Parent’s complaint, there is no party to consent to an amended complaint. Moreover, because the complaint identifies only what Parent believes to be systemic problems with the Department’s investigative processes and procedures, the ALJ has determined amendment would be inappropriate as it is unclear how Parent could reframe the complaint to plead the same deficiencies against the resident school district.

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 May 27, 2025 is insufficient and therefore **DISMISSED** with prejudice.

/s/ Joe L. Allen

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 June 12, 2025, I mailed the foregoing RULING GRANTING OREGON DEPARTMENT OF EDUCATION'S MOTION FOR DETERMINATION OF SUFFICIENCY OF REQUEST FOR HEARING AND FINAL ORDER OF DISMISSAL issued on this date in OAH Case No. 2025-ABC-07138.

By: Electronic and Certified Mail

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