

This is a redacted version of the original hearing officer decision. Select details may have been removed from the decision to preserve anonymity of the student. The redactions do not affect the substance of the document.

HEARING OFFICER DECISION/ORDER
CHILD'S NAME: S.B.
AMBRIDGE AREA SCHOOL DISTRICT (FILE # 6309/05-06 KE)

Date of Birth: [redacted]
Date of Hearing: March 24, 2006

I. PARTIES TO THE HEARING

PARENT:

DATE TRANSCRIPT RECEIVED:
March 27, 2006

PARENT REPRESENTATIVE:

HEARING OFFICER:
Dorothy J. O'Shea, Ph.D.

Signature: Hearing Officer

DISTRICT CONTACT:

Ms. Michelle Scala-Dubaich
Supervisor of Special Education
740 Park Road
Ambridge, PA 15003-2474

March 29, 2006
Date of Decision/Order

DISTRICT REPRESENTATIVE:

Gregory Gleason, Esquire
Jocelyn M. Perry, Esquire
503 Ft. Pitt Commons Building
445 Ft. Pitt Blvd.
Pittsburgh PA 15219

HEARING OFFICER DECISION/ORDER
CHILD'S NAME: Student
AMBRIDGE AREA SCHOOL DISTRICT (FILE # 6309/05-06 KE)

II. BACKGROUND INFORMATION

Student and his father, Parent, are not residents of the Ambridge Area School District (i.e., the District). Student's father made a February 8, 2006 due process hearing request to the Office for Dispute Resolution (ODR) concerning Student's educational program in the District. On February 28, 2006, the District challenged the sufficiency of the father's February 8, 2006 due process hearing request, asking for information on Student's residency and specificity regarding the father's request for due process.

III. FINDINGS OF FACT

- 1) Student was born xx/xx/xx (Hearing Officer Exhibit 2: HO 2).
- 2) Although his mother is a District resident, both Student and his father are not District residents (HO 2).
- 3) On February 8, 2006, Student's father completed an ODR *Due Process Hearing Request* form indicating Student "*has not been able to learn in any setting we have tried so far*" (HO2).
- 4) On February 22, 2006, the ODR assigned the Hearing Officer to preside over the due process hearing (HO 1).
- 5) On February 22, 2006, ODR sent a *Notice Of Hearing* to the parties. The hearing was scheduled for March 24, 2006 (HO 1, NT 5-6).
- 6) On February 23, 2006, the Hearing Officer directed the parties to certain steps that must be taken before a hearing can be held, including participation in a Resolution Meeting; completion of a written waiver of the Resolution Meeting; filing of a request for mediation; or evidence of an agreement signed by both sides (HO 1).
- 7) On February 28, 2006, the District challenged the sufficiency of the Parent's February 8, 2006 request (HO 2, NT 6-7).
- 8) On March 1, 2006, the Hearing Officer made a determination that the Parent's February 8, 2006 request was insufficient (HO 3).
- 9) On March 1, 2006, the Hearing Officer granted the Parent the opportunity to amend his February 8, 2006 request, directing the Parent to send his written, amended request to the Hearing Officer and to the District by March 11, 2006 (HO 3, NT 7).
- 10) On March 24, 2006, during a pre-hearing telephone conference call with the District representative present, the Hearing Officer contacted the Parent. Student's father [who] stated he received the February 22, 2006 hearing notice, was at work, and chose not to attend the March 24, 2006 hearing session (NT 3-5).
- 11) On March 24, 2006, the District summarized results of the Resolution Meeting data request by the Hearing Officer, stating the District did not have the opportunity to conduct a Resolution session because Student did not live in the District (HO 1; NT 7-8).
- 12) On March 24, 2006, the District representative stated the Parent did not follow the Hearing Officer's directive to submit in writing to the District and Hearing Officer by March 11, 2006 a detailed explanation of the Parent's request (HO 3; NT 8-10).
- 13) On March 24, 2006, the District made a *Motion to Dismiss* on the District's claim of an insufficient February 8, 2006 hearing request and the father's inability to specify Student's residency status and District enrollment (NT 8-9).

IV. ISSUE

Should the District's March 24, 2006 Motion to Dismiss be granted?

V. DISCUSSION AND CONCLUSIONS OF LAW

The *Individuals with Disabilities Education Improvement Act* (IDEIA), specifically 20 U.S.C. §1415, requires the party requesting a due process hearing to provide a due process complaint notice in accordance with §1415(c)(2). The complaint notice shall include: (1) the name of the child, the address of the residence of the child, and the name of the school the child is attending; (2) a description of the nature of the problem of the child relating to such proposed initiation or change, including the facts relating to such problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time. 20 U.S.C. §1415(b)(7)(A)(ii).

The due process complaint notice required under subsection (b)(7)(A) above shall be deemed sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing that the receiving party believes the notice has not met the requirements of subsection (b)(7)(A). Other than the prior written notice requirement for a local educational agency (LEA), “*the non-complaint party shall, within 10 days of receiving the complaint, send to the complainant a response that specifically addresses the issues raised in the complaint.*” § 615(c) (2) (B) (ii). Amended complaints are permitted by consent, and by a hearing officer order but not within five days of the hearing. § 615(c) (2) (E).

Parent’s February 8, 2006 *Due Process Hearing Request* did not meet the requirements of 20 U.S.C. §1415 (b)(7)(A). Specifically, his request failed to establish Student’s residency, did not provide the name of the school Student is attending, and did not describe the nature of Student’s problem or any facts relating to such problem. The request did not set forth any proposed resolution. The request did not allow the District to respond to the February 8, 2006 request. Thus, Parent’s due process hearing request is insufficient under the IDEIA.

Parent received an opportunity to amend his insufficient due process hearing request. § 615(c) (2) (E). The Hearing Officer directed the Parent to submit his amended request to this Hearing Officer and to the District by March 11, 2006 (HO 3). The Parent did not follow the Hearing Officer’s directive (HO 3; NT 7-10).

During the March 24, 2006 hearing, Parent had the opportunity to present evidence in support of his claim. 34 CFR §300.509. See *Santhouse V. Bristol Township School District*, (E.D. Pa. 1997) 26 IDELR 720. Although he received a February 22, 2006 *Notice of Hearing* stating the time and place of the March 24, 2006 hearing, and the Hearing Officer contacted him during a pre-hearing telephone conference prior to the hearing initiation (NT 3), Student’s father chose not to appear during the March 24, 2006 hearing. Accordingly, the District’s March 24, 2006 Motion to Dismiss is granted.

**HEARING OFFICER ORDER
SPECIAL EDUCATION HEARING FOR STUDENT
SCHOOL DISTRICT (FILE # 6309/05-06 KE)**

AND NOW, this 29th day of March 2006, the School District is ordered to take NO action. File # 6309/05-06 KE is dismissed and considered to be closed.

Dorothy J. O'Shea, Ph.D.
Hearing Officer

DECISION DATE: _____