



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

DECISION ON
SUFFICIENCY OF COMPLAINT

OAL DKT. NO. EDS 5626-18

AGENCY DKT. NO. 2018-27829

G.F. O/B/O S.F.,
Petitioners,

v.

EWING TOWNSHIP BOARD
OF EDUCATION,
Respondent.

G.F., petitioner, pro se

Robin Ballard, Esq., for respondent (Schenck, Price, Smith and King, LLP,
attorneys)

Record Closed: April 18, 2018

Decided: April 20, 2018

BEFORE **LISA JAMES-BEAVERS**, Acting Director and Chief ALJ:

On April 12, 2018, petitioner filed a due process complaint with the Department of Education, Office of Special Education Programs. On April 18, 2018, respondent filed a notice asserting that the complaint is insufficient for the following reasons: S.F.

has been removed from the care and custody of petitioner; the Division of Child Protection and Permanency (DCP&P) has legal and physical custody of S.F.; petitioner failed to supply a current address for S.F.; the petition fails to articulate a dispute regarding S.F.'s special education program and any facts relevant to same; and petitioner provides no facts to substantiate the claim that the school district refuses to allow the child back into the district and further has no reference to the child's special education needs or program. 20 U.S.C. § 1415(c)(2)(A); 34 C.F.R. § 300.508(d)). The Office of Special Education Programs transmitted this case to the Office of Administrative Law, where it was filed on April 19, 2018.

In order to obtain a hearing on a due process complaint or to engage in a resolution session based upon a due process complaint, the petitioner's due process complaint must provide information including the following: the name of the child; the address of the residence of the child, or, if homeless, available contact information for the child; the name of the school the child is attending; a description of the nature of the problem of the child relating to the proposed or refused initiation or change; the facts relating to the problem; and a proposed resolution to the problem, i.e., relief sought, to the extent known and available to the party at the time. 20 U.S.C. § 1415 (b)(7)(A); 34 C.F.R. § 300.508(b), (c); N.J.A.C. 6A:14-2.7(a).

Having reviewed the filed complaint, I find and conclude that it does not set forth the information required. The complaint includes the name of the child and states that the child is not attending any school. The complaint does not include the following: the address of the residence of the child; a description of the nature of the problem relating to the proposed or refused initiation or change; or the facts relating to the problem. The dispute set forth in the complaint is that he believes the school district has refused to let the child back into the school district. There are no facts set forth to substantiate the claim and there are no facts set forth indicating there is a dispute with S.F.'s special education needs pursuant to N.J.A.C. 6A:14-2.7(a).

Further, the proposed resolution to the problem, specifically “to work with and communicate with parent, not the child” would contradict the Child Protection Multipurpose Order attached to the sufficiency challenge that gives legal custody to DCP&P and physical custody to a DCP&P resource home. (Exhibit 1.) As set forth in the sufficiency challenge, G.F., has no legal or physical custody of S.F. Therefore, G.F. has no standing to bring this complaint for due process.

The complaint fails to set forth a dispute regarding S.F.’s special education program with facts to support the claim as required by 20 U.S.C. § 1415(c)(2)(A); 34 C.F.R. § 300.508(d); and N.J.A.C. 6A:14-2.7(a) and fails to set forth relief that is available to G.F.

I therefore find and conclude that the complaint is insufficient and I **ORDER** the due process complaint **DISMISSED**.

Respondent shall have fifteen days after filing of an amended complaint to file a notice concerning the sufficiency of the complaint. If an amended complaint is timely filed, the timelines for the resolution meeting and due process hearing shall commence on the date that complaint is received by the Office of Administrative Law. 20 U.S.C. § 1415 (c)(2)(E); 34 C.F.R. § 300.508(d)(4).

This decision is final pursuant to 20 U.S.C. § 1415(g)(2) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a District Court of the United States. 20 U.S.C. § 1415(g)(2).

April 20, 2018

DATE



LISA JAMES-BEAVERS
Acting Director and Chief
Administrative Law Judge

Date Received at Agency:

Date Sent to Parties:

caa