



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

DECISION
SUFFICIENCY OF COMPLAINT
OAL DKT. NO. EDS 11973-18
AGENCY DKT. NO. 2019/28616

PATERSON BOARD OF EDUCATION,

Petitioner,

v.

M.B. ON BEHALF OF J.B.,

Respondents.

Philip Taylor, Esq., for respondent (P. Taylor Legal, PLLC)

Frances Barto, Esq., for petitioner (Barto & Barto, attorneys)

Record Closed: August 21, 2018

Decided: August 22, 2018

BEFORE: **JOANN LASALA CANDIDO**, ALAJ:

The petitioner filed a due process petition on August 7, 2018. On August 16, 2018, respondent filed a notice asserting that the complaint is insufficient as required by N.J.A.C. 6A:14-2.7(a) & (c). The Office of Special Education Programs transmitted this case to the Office of Administrative Law, where it was filed on August 21, 2018.

The respondent asserts in part that the Petition is flawed because:

“...The district mischaracterizes parent’s request for initial assessments as one for independent evaluations. Instead, Parent specifically disclaimed a request for independent evaluations, at this state, and reiterated that her request only seeks initial assessments consistent with the District’s obligation to evaluate all areas of suspected disability. The District has failed to provide the requisite notice to Parent explaining its refusal to change the proposed evaluation and has similarly failed to adequately allege its refusal in the Petition. . . .”

. . . .

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).

After reviewing the petition, I **FIND** that the petition clearly states the name of petitioners, address, the school J.B. is attending, a description of the nature of the problem and a proposed resolution to the problem and relief they are seeking.

Having reviewed the petition for due process, I **CONCLUDE** that it includes the information required by statute and regulation and therefore is sufficient. I **ORDER** that the case be returned to OSEP and that the parties proceed with the resolution session or mediation.

This decision is final pursuant to 20 U.S.C. § 1415(g)(2) and is appealable by filing a petition 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).



August 22, 2018

DATE

JOANN LASALA CANDIDO, ALAJ

Date Received at Agency:

August 22, 2018

Date Sent to Parties:

August 22, 2018

ljb