



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

SUFFICIENCY OF COMPLAINT

OAL DKT. NO. EDS 12465-18

AGENCY DKT. NO. 2019 28670

S.R. ON BEHALF OF J.R.,

Petitioners,

v.

EWING TOWNSHIP BOARD OF EDUCATION,

Respondent.

S.R., pro se

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

Record Closed: August 28, 2018

Decided: August 29, 2018

BEFORE **ELLEN S. BASS**, ALJ:

Petitioner S.R., on behalf of her child, J.R., filed a request for due process under N.J.A.C. 6A:14-2.7, on August 22, 2018. On August 28, 2018, the Ewing Township Board of Education (the Board) filed a notice asserting that the petition is insufficient. N.J.A.C. 6A:14-2.7(f); 20 U.S.C. §1415(c)(2)(A); 34 C.F.R. §300.508(d). The Office of Special Education Programs (OSEP) transmitted this case to the Office of Administrative Law (OAL) for a sufficiency ruling, where it was filed on August 28, 2018.

N.J.A.C. 6A:14-2.7(f) provides that “a request for a due process hearing or expedited due process hearing (for disciplinary issues) serves as notice to the respondent of the issues in the due process complaint.” Via its request for a sufficiency ruling, the Board urges that this request does not identify “any specific dispute over J.R.’s special education program or [raise] a specific issue with how the District is proposing to address his special education needs.”

In order to obtain a hearing on a due process complaint, or to engage in a resolution session, the petitioner must provide the following information: 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).

I **FIND** that the petition includes the information required by the statutes and regulations governing special education due process petitions. And although the Board contends otherwise, the petition explains the nature of the problem, and proposes a resolution. This is petitioner’s second due process petition; she asks that it be consolidated with EDS 07849-18, which was filed on May 2, 2018, and is currently scheduled for hearing in December 2018. The earlier petition challenged an IEP offered for the 2018-2019 school year. Petitioner, who has filed pro se, now challenges a revised IEP forwarded to her on or about August 14, 2018. Most especially, pending adjudication of both petitions, she asks for “stay put.” Her intent in filing this latest petition appears quite clear; she is concerned that the revised IEP offered in August will somehow affect the “stay put” protections in place via the filing of the May 2018 due process petition. And she wishes to assert that, simply put, the revised IEP has not resolved the concerns that led her to file for due process in the first place.

A sufficient due process petition is one that alerts the responding school district to the claims in contention. Here, the Board recognizes that S.R.’s paramount concern is “stay put,” as is clear from the sufficiency challenge itself, which states that “there is

no dispute as to this issue. J.R.'s last IEP was placed in stay-put when the prior Petition dated May 2, 2018, which Petitioner references, was filed." A letter to petitioner to that effect would have better served the process than does filing this sufficiency challenge. Such a letter would have reassured petitioner that the 2017-2018 IEP would stay in effect pending adjudication of the May 2018 due process petition and might have obviated the need to file the instant petition.

As to the reasons why the August 2018 IEP continues to be less than satisfactory, I would agree that petitioner might have better articulated her concerns. But in light of her pro se status, I believe it would be unfair to dismiss the petition. To reiterate, it is clear to me that petitioner simply wishes to preserve her rights.

I **CONCLUDE** that this petitioner has filed a sufficient due process petition. I therefore **ORDER** that the case be returned to the Office of Special Education Programs and that the parties proceed with the requested mediation.

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); 34 C.F.R. § 300.516 (2007).

August 29, 2018



DATE

ELLEN S. BASS, ALJ

Date Received at Agency

August 29, 2018

Date Mailed to Parties:
sej
