



**State of New Jersey**

OFFICE OF ADMINISTRATIVE LAW

**DECISION**

**SUFFICIENCY OF COMPLAINT**

OAL DKT. NO. EDS 1027-18

AGENCY DKT. NO. 2018 27361

**K.T. on behalf of B.T.,**

Petitioner,

v.

**WASHINGTON TOWNSHIP**

**BOARD OF EDUCATION,**

Respondent.

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**Bradley Flynn**, Esq., for petitioner (Montgomery Law, LLC, attorneys)

**Sanmathi Dev**, Esq., for respondent (Capehart Scatchard, attorneys)

Record Closed: January 19, 2018

Decided: January 22, 2018

BEFORE **EDWARD J. DELANOY, JR.**, ALAJ:

On or about January 2, 2018, petitioner K.T. submitted an undated request for due process hearing to the Office of Special Education Program (OSEP). In its complaint, petitioner seeks independent evaluations and an IEP meeting convened

utilizing the information from the independent evaluations to determine program and placement; a finding that respondent ("District") has illegally excluded B.T. from school in contravention of Section 504; compensation for out-of-pocket expenses; and compensatory education.

By way of background, petitioner filed a request for due process dated October 31, 2017 (October 17, 2017 petition). She also filed a request for emergent relief dated November 2, 2017. On November 28, 2017, K.T.'s request for emergent relief was denied. On December 13, 2017, the District filed a motion to dismiss the October 2017 petition. The parties participated in a settlement conference at which time no resolution was reached nor was a decision entered on the motion. Thereafter, on January 2, 2018, K.T. withdrew the October 2017 petition, and subsequently filed the petition herein.

On January 17, 2018, the District filed a notice asserting that the petition is insufficient for the following reasons:

1. Petitioner fails to name B.T.'s father in the petition, and B.T.'s father is an indispensable party to the case.
2. K.T.'s claims are barred by the entire controversy doctrine.

Accordingly, the District urges that petitioner has failed to set forth a sufficient petition for due process.

The Office of Special Education Programs transmitted this case to the Office of Administrative Law, where it was filed on January 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).

Upon review of the petition, the name of the child, the address of the residence of the child, and the name of the school the child is attending are all provided. In addition, there is a lengthy recitation by petitioner of the nature of the complaint and the facts relating to B.T. As such, petitioner has presented a platform sufficient to allow the District and a reviewing tribunal the ability to understand the dispute that petitioner is raising.

Therefore, having reviewed the filed complaint, I find and conclude that it does set forth the information required. Specifically, the complaint does include the following:

the name of the child.

the address of the residence of the child.

the name of the school the child is attending.

N/A the available contact information for a homeless child.

a description of the nature of the problem relating to the proposed or refused initiation or change.

the facts relating to the problem.

a proposed resolution to the problem to the extent known and available to the party at the time.

While the District may be correct in its insufficiency claims, the claims set forth in this sufficiency challenge are not factors to be considered in a sufficiency challenge. The petition in its present form is sufficient as required by law. As to the claim that B.T.'s father is an indispensable party but is not named, I note that by letter to OSEP dated January 17, 2018, petitioner seeks leave to enter B.T.'s father as a named party.

Respondent may wish to raise its arguments regarding the entire controversy doctrine in a summary decision motion brought during the pendency of the due process challenge, should that challenge otherwise move forward. However, the entire controversy doctrine and indispensable party issues are not viable at this stage of the proceeding.

Having reviewed the filed complaint, I find and conclude that it includes all of the required information and is therefore sufficient. Therefore, I **ORDER** that the case be returned to the Office of Special Education 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 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).



January 22, 2018 \_\_\_\_\_

DATE

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**EDWARD J. DELANOY, JR., ALJ**

Date Received at Agency: \_\_\_\_\_

Date Sent to Parties: \_\_\_\_\_

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