



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

DECISION

SUFFICIENCY OF PETITION

OAL DKT. NO. EDS 14691-18

AGENCY DKT. NO. 2019 28848

D.F. on behalf of K.C.,

Petitioner,

v.

BLACK HORSE PIKE REGIONAL

BOARD OF EDUCATION,

Respondent.

Record Closed: October 10, 2018

Decided: October 11, 2018

BEFORE EDWARD J. DELANOY, JR., ALAJ:

On September 26, 2018, petitioner filed a due process petition with the Department of Education, Office of Special Education Programs (OSEP). On or about October 9, 2018, respondent filed a notice asserting that the petition is insufficient because the petitioner had not asserted in the petition any facts which would place the respondent in a position to understand petitioner's position or allow respondent the opportunity to effectively defend this matter. Respondent urges that the petition fails to include the specific issues in dispute or a description of the nature of the problem. Instead, respondent argues that the petition asserts several extremely vague and

disjointed alleged facts, which taken together, fail to describe any specific issues in dispute, and petitioner has not alleged any specific violation that respondent failed to provide a free, appropriate, public education (FAPE). The Office of Special Education Programs transmitted this case to the Office of Administrative Law, where it was filed on October 10, 2018.

In order to obtain a hearing on a due process petition or to engage in a resolution session based upon a due process petition, the petition 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) and (c).

Upon review of the due process petition, there is only a brief recitation by petitioner of the nature of the complaint and the facts relating to K.C. Specifically, in the September 23, 2018, due process petition, petitioner alleges that:

Last year I had two meeting [sic] with the school which the manager from the IEP want to put my son to a night time school for any reason I communicated with the supervisor of the IEP manager because he wants to do things his way and not respect my right [sic] or my son [sic] right [sic]. The manager told me the 28 day I will receive a letter to appeal the decision of which never happened. I only received a letter 3 day [sic] before starting school saying that he had to go to school at night. Also I contact [sic] the principal the principal from the program my son it [sic] in. Also the new supervise [sic] my son being out of school on [sic]

As such, the pro se petitioner has not presented a basic platform sufficient to allow the school board, the school district, and a reviewing tribunal the ability to understand the dispute that petitioner is raising. Petitioner's allegations and statements of grievances are not outside the scope of a due process petition challenging FAPE, but

petitioner has not sufficiently outlined the facts that relate to the problem that petitioner hopes to see resolved. In addition, petitioner has not produced any supporting documentation. As such, I am satisfied that petitioner has not sufficiently outlined the facts relating to the problem, and petitioner has not set forth a valid proposed resolution to the problem.

Having reviewed the petition for due process, I **FIND** that it does not set forth the information required by statute and regulation. Specifically, the petition does properly 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.

Notwithstanding the aforementioned items that are properly included, the due process petition fails to assert the specific issues in dispute or a description of the nature of the problem. Instead, the petition includes a vague and disjointed dissertation of alleged facts, which fail to describe any specific issues in dispute when read both individually and collectively. In addition, petitioner failed to state a proposed resolution to the problem or relief sought. Petitioner appears to describe two meetings with an "IEP manager" who "wants to do things his way" by putting K.C. in a "night time school." A recitation of the alleged facts continues, but no description of how this problem could be resolved is provided by petitioner. Therefore, without a description of the problem or issues in dispute, respondent is unable to file an informed response to this portion of the

petition, other than making general denials, which is not permitted under N.J.A.C. 16A:14-2.7(e).

I **CONCLUDE** that the petition is insufficient, and I **ORDER** the due process petition **DISMISSED**.

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).



October 11, 2018 _____

DATE

EDWARD J. DELANOY, JR., ALAJ

Date Received at Agency: _____

Date Sent to Parties: _____

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