



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

SUFFICIENCY OF COMPLAINT

OAL DKT. NO. EDS 12973-18

AGENCY DKT. NO. 2019 28718

L.D. AND E.D. ON BEHALF OF E.D.,

Petitioners,

v.

CENTRAL REGIONAL BOARD OF EDUCATION,

Respondent.

Michael Inzelbuch, Esq. for petitioners

Alexandra Stulpin, Esq., for respondent (Comegno Law Group, P.C., attorneys)

Record Closed: September 5, 2018

Decided: September 7, 2018

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

Petitioners, L.D. and E.D., on behalf of their child, E.D., filed a request for due process under N.J.A.C. 6A:14-2.7, on August 28, 2018. On September 5, 2018, the Central Regional 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 September 6, 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 the issues in dispute with sufficient specificity.

In order to obtain a hearing on a due process complaint, or to engage in a resolution session, the petitioners 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. The petition avers that an IEP presented to the parents on or about August 10, 2018, is at issue; that the parents have rejected that IEP; and believe that the IEP omits several critical components, to include, a Behavioral Intervention Plan (BIP), and programming to address executive functioning social skills, and time management deficits. The petition also generally contends that the child study team disregarded the input of a private expert; it names that expert and shares that she attended a July 2018 IEP Team meeting.

A sufficient due process petition is one that alerts the responding school district to the claims in contention. This petition does so. The sufficiency challenge focuses on the language at the end of the petition which summarizes the parental concerns with the vague and general statement that they seek “a legal, proactive and thorough IEP for [their] child.” But the challenge ignores the fact that earlier in the document the parents make it very plain why they think the IEP is deficient.

I **CONCLUDE** that the petitioners have 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).

September 7, 2018



DATE

ELLEN S. BASS, ALJ

Date Received at Agency

September 7, 2018

Date Mailed to Parties:

sej