



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**FINAL DECISION**

**SUFFICIENCY OF COMPLAINT**

OAL DKT. NO. EDS 05834-19

AGENCY DKT. NO. 2019 29794

**C.R. ON BEHALF OF C.R.,**

Petitioners,

v.

**NUTLEY TOWN BOARD OF EDUCATION,**

Respondent.

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**C.R., pro se**

**Joanne L. Butler, Esq.**, for Respondent (Schenck, Price, Smith and King,  
attorneys)

Record Closed: May 1, 2019

Decided: May 2, 2019

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

Petitioner C.R., on behalf of her child, C.R., filed a request for due process under N.J.A.C. 6A:14-2.7, on April 15, 2019. On April 30, 2019, the Nutley 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 May 1, 2019.

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 meet the requirements of the administrative code and should be dismissed.

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).

A sufficient due process petition is one that alerts a responding school district to the claims in contention. I **FIND** that C.R. lives in East Orange. Her claims arise from the termination of her son’s enrollment in a special education program in Nutley. C.R. asks that her son “return to school under homebound instruction,” and receive all related services. But she is not a domiciliary of Nutley; indeed, C.R. attended school in Nutley pursuant to an out-of-district placement IEP developed by the East Orange Board of Education. Nutley, the only respondent Board of Education in this matter, thus argues that if petitioner seeks homebound instruction or related services, it is East Orange that would be the LEA responsible to provide these services to her son. Nutley thus asserts that there is no relief it can provide the petitioner and that the petition should be dismissed.

But Nutley, as the receiving district, had certain obligations under N.J.A.C. 6A:14-7.7 if it wished to terminate its enrollment contract with East Orange. And the petition quite clearly alleges that it violated those obligations when it “terminated [its] contract [with East Orange] without prior notice.” The issues of whether Nutley complied with the requirements of N.J.A.C. 6A:14-7.7, and if not, whether there is any relief available to

this petitioner, are substantive claims and defenses properly considered at plenary hearing, or via a fully briefed motion.

I therefore **CONCLUDE** that the petition is sufficient, and **ORDER** that the case be returned to the Office of Special Education Programs and that the parties proceed with mediation. There is no indication that the district has agreed to waive 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).

May 2, 2019



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DATE

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**ELLEN S. BASS, ALJ**

Date Received at Agency

May 2, 2019  
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Date Mailed to Parties:

sej  
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