



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

SUFFICIENCY CHALLENGE

OAL DKT. NO. EDS 01859-20

AGENCY DKT. NO. 2020-31203

M.J. and B.J. ON BEHALF OF M.J.,

Petitioners,

v.

EAST ORANGE BOARD OF EDUCATION,

Respondent.

Record Closed: February 10, 2020

Decided: February 10, 2020

BEFORE **BARRY E. MOSCOWITZ**, ALJ:

STATEMENT OF THE CASE

This decision addresses a sufficiency challenge under 20 U.S.C. § 1415(c)(2)(A), 34 C.F.R. § 300.508(d) (2019), and N.J.A.C. 6A:14-2.7(f).

FINDINGS OF FACT

Based on the documents submitted concerning this sufficiency challenge, I **FIND** the following as **FACT**:

On February 3, 2020, petitioner filed a request for due process hearing with the Department of Education, Office of Special Education Policy and Dispute Resolution (OSEPDR).

On February 6, 2020, respondent filed a sufficiency challenge with OSEPDR under 20 U.S.C. § 1415(c)(2)(A), 34 C.F.R. § 300.508(d) (2019), and N.J.A.C. 6A:14-2.7(f).

On January 15, 2020, OSEPDR transmitted the sufficiency challenge to the Office of Administrative Law to determine whether this request for due process hearing meets the requirements of 20 U.S.C. § 1415(b)(7)(A).

In his petition, petitioner does not describe the nature of the problem regarding any proposed initiation or change related to his child. He does not propose a resolution of the problem either. He simply suggests that he wants his child placed out of district and that his one-to-one aid is not working:

2 years I have a Due Process hearing requesting placement for my son. Instead of transferring out of district to an appropriate school, he had a private aid that was assigned to him. This arrangement is not

It is not even clear whether his child is being bitten by other children or that his child is biting other children: “Although he has a private aide, [M.J.] has been biting by other student 3x for the last 6 months. He bruises in his face, and my wife and I had to go pick him up from school every time.”

CONCLUSIONS OF LAW

Under 20 U.S.C. § 1415(b)(7)(A), a due process complaint must provide notice of the following:

- (l) the name of the child, the address of the residence of the child (or available contact information in the case of a homeless child), and the name of the school the child is attending;

(II) in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child and the name of the school the child is attending;

(III) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

(IV) a proposed resolution of the problem to the extent known and available to the party at the time.

[20 U.S.C. § 1415(b)(7)(A)(ii).]

More pointedly, under N.J.A.C. 6A:14-2.7(c), a request for a due process hearing must state the specific issues in dispute, relevant facts, and the relief sought:

A request for a due process hearing shall be made in writing to the State Director of the Office of Special Education Programs. The party initiating the due process hearing shall send a copy of the request to the other party. The written request shall note that a copy has been sent to the other party. The written request shall include the student's name, student's address, the student's date of birth, the name of the school the student is attending and shall state the specific issues in dispute, relevant facts and the relief sought and, in the case of a homeless child, available contact information for the child and the name of the school the child is attending.
[N.J.A.C. 6A:14-2.7(c).]

In this case, petitioner does not state the specific issues in dispute, the relevant facts, or the relief sought. It is not even clear whether his child is being bitten by other children or that his child is biting other children. Thus, it cannot be said that petitioner has described the nature of the problem regarding any proposed initiation or proposed a resolution to the problem as 20 U.S.C. § 1415(b)(7)(A) requires. Accordingly, I **CONCLUDE** that the notice contained in the due process complaint is insufficient.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the request for due process hearing be **DISMISSED**.

This decision is final under 20 U.S.C. § 1415(i)(1)(A) and is appealable under 20 U.S.C. § 1415(g)(2) by filing a petition and bringing a civil action in the Law Division of the Superior Court of New Jersey or in a district court of the United States.

February 10, 2020 _____

DATE



BARRY E. MOSCOWITZ, ALJ

Date Received at Agency:

February 10, 2020 _____

Date Sent to Parties:

dr