



State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

DECISION

SUFFICIENCY OF PETITION

OAL DKT. NO. EDS 10187-18

AGENCY DKT. NO. 2019 28475

N.P., on behalf of M.B.,

Petitioner,

v.

**OAKLYN BOROUGH BOARD OF
EDUCATION,**

Respondent.

N.P. on behalf of M.B., petitioner, pro se

Robert Muccilli, Esq., for respondent (Capehart & Scatchard, PA, attorneys)

Record Closed: July 19, 2018

Decided: July 23, 2018

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

On July 9, 2018, petitioner filed a due process petition with the Department of Education, Office of Special Education Programs (OSEP). On July 18, 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 on notice of the circumstances underlying the alleged noncompliance with M.B.'s 504 Plan. In addition, petitioner did not attach to the petition any e-mails, nor did petitioner identify any e-mail which either described the specific alleged noncompliance issue or asserted supporting facts related to the alleged noncompliance. 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 transmitted this case to the Office of Administrative Law, where it was filed on July 19, 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 M.B. Specifically, in the July 1, 2018, due process petition, petitioner alleges that “the administrator and staff have failed to comply with [M.B.’s] 504. I have emails dating back to 2016 in which I repeatedly (sic) request compliance and support.” 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 emails dating back to 2016 in which petitioner has requested compliance and support. 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.

However, notwithstanding the aforementioned items that are properly included, the due process petition fails to assert in the petition any facts which would place the respondent on notice of the circumstances underlying the alleged noncompliance with M.B.'s 504 Plan. Petitioner has not attached to the petition any e-mails nor has petitioner identified specifically any e-mail which either describes the specific alleged noncompliance issue or assert supporting facts related to the alleged noncompliance. In addition, the proposed resolution to the problem is also invalid as it fails to properly put respondent on notice of what specific course of action will resolve the issues. .

I therefore **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).



July 23, 2018 _____

DATE

EDWARD J. DELANOY, JR., ALAJ

Date Received at Agency:

Date Sent to Parties:

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