



State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

DECISION

SUFFICIENCY OF PETITION

OAL DKT. NO. EDS 8915-19

AGENCY DKT. NO. 2020-30283

D.W. on behalf of S.D.,

Petitioner,

v.

BRIDGEWATER-RARITAN

REGIONAL BOARD OF

EDUCATION,

Respondent.

Moshood Muftau, Esq., for petitioner

David B. Rubin, Esq., for respondent

Record Closed: July 3, 2019

Decided: July 8, 2019

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

On July 1, 2019, petitioner filed a due process petition with the Department of Education, Office of Special Education Programs (OSEP). On July 2, 2019, respondent filed a notice asserting that the petition is insufficient for the following reasons:

1. The due process petition alleges that the district violated S.D.'s rights by arbitrarily requiring her to undergo a medical examination based on evidence that she was under the influence of drugs. The petitioner suggests that the administration was remiss in not conducting a more thorough inquiry into the basis for the staff member's accusation. The petition states that S.D. is a student with a disability and that a manifestation determination was conducted, but nowhere alleges that S.D.'s behavior was a manifestation of her disability. S.D.'s disability is entirely beside the point of petitioner's allegations.

2. Petitioner is not alleging any denial of rights under the Individuals with Disabilities Education Act or N.J.A.C. 6A:14. Petitioner urges that this is an "EDU" case, not an "EDS" one. The petition should be dismissed for failure to allege any violation "relating to the identification, evaluation, or educational placement of [S.D.], or the provisions of a free appropriate public education" under the Individuals with Disabilities Education Act. 20 U.S.C. § 1415 (b)(6)(A).

The Office of Special Education Programs transmitted this case to the Office of Administrative Law, where it was filed on July 2, 2019.

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 petition, there is a lengthy recitation by petitioner of the nature of the complaint and the facts relating to S.D. Petitioner has also outlined the relief that she is requesting in the conclusion section of the petition. As such, the petitioner has presented a basic platform sufficient to allow the school board, the District, and a reviewing tribunal the ability to understand the dispute that petitioner is raising. The trouble with petitioner's filing is that the allegations and statements of grievances are outside the scope of a due process petition challenging violations of the IDEA. The challenges are to general education disciplinary actions only, and do not invoke the special education issues and/or violations thereof covered by the IDEA. Respondent is correct that this matter is properly an "EDU" matter, and not an "EDS" matter. As such, I am not satisfied that petitioner has sufficiently outlined the facts relating to a special education problem, and that is fatal to the petition.

Specifically, the petition does 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.

Therefore, having reviewed the petition for due process, I **CONCLUDE** that it does not include the information required by statute and regulation for a special education matter, and that it is therefore, insufficient. There is an insufficient description of the nature of the problem relating to the proposed initiation or change, that is, that the description of the issue does not invoke the special education issues and/or violations

thereof covered by the IDEA. Petitioner has not sufficiently outlined the facts relating to a special education problem, and that is fatal to the petition.

Therefore, 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 8, 2019

DATE

EDWARD J. DELANOY, JR., ALAJ

Date Received at Agency:

Date Sent to Parties:

/lam