



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

SUFFICIENCY OF COMPLAINT

OAL DKT. NO. EDS 03196-19

AGENCY DKT. NO. 2019 29496

E.J. AND E.J. ON BEHALF OF H.J.,

Petitioners,

v.

**WATCHUNG HILLS REGIONAL BOARD
OF EDUCATION, AND SOMERSET COUNTY
VOCATIONAL-TECHNICAL SCHOOL,¹**

Respondents.

Louis M. Flora, Esq., for petitioners (Law Offices of Gregory G. Johnson,
attorneys)

Robin Ballard, Esq., for respondent, Watchung Borough (Schenck, Price, Smith
and King, attorneys)

Lisa Fittipaldi, Esq., for respondent, Somerset County (DiFrancesco Bateman,
attorneys)

Record Closed: March 6, 2019

Decided: March 7, 2019

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

¹ The transmittal document incorrectly refers to respondent as the Watchung Borough Board of Education.

Petitioners E.J. and E.J., on behalf of their child, H.J., filed a Request for Mediation Only under N.J.A.C. 6A:14-2.7, on March 4, 2019. The matter was converted to a Request for Due Process after an unsuccessful mediation session conducted on March 4, 2019. The Department of Education has advised that the parties are continuing their efforts at mediation.

On March 5, 2019, the Watchung Hills Regional Board of Education (Watchung) 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 March 6, 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, Watchung urges that this request does not identify any dispute or concern regarding H.J.’s special education programming in either Watchung or at the Vocational-Technical School.

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).

I **FIND** that the petition includes the information required by the statutes and regulations governing special education due process petitions. A sufficient due process petition is one that alerts the responding school district to the claims in contention. Although the parents are now represented by counsel, the petition was initially filed pro se. While their petition is somewhat terse, it is clear that H.J. has an IEP, and that her parents are challenging a proposed change in her current educational program, which

involves shared time between the vocational school and the high school program operated by Watchung. Clearly the relief they seek is maintenance of the status quo.

A sufficiency challenge is a mechanism to be used sparingly, and I **CONCLUDE** that it would be inappropriate to delay consideration of the parents' claims on the merits by dismissing the petition and forcing them to refile. To the extent that there is no merit to petitioners' claims; or it appears that Watchung has been improperly named as a party respondent because the relief these petitioners seek is available only from the Vocational School; these are matters more properly addressed after fuller exploration at plenary hearing, or via a fully briefed Motion for Summary Decision.

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).

March 7, 2019



DATE

ELLEN S. BASS, ALJ

Date Received at Agency

March 7, 2019

Date Mailed to Parties:

sej