



State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

DECISION

SUFFICIENCY OF PETITION

OAL DKT. NO. EDS 162-20

AGENCY DKT. NO. 2020-31070

**UPPER FREEHOLD REGIONAL
BOARD OF EDUCATION,**

Petitioner,

v.

S.T. on behalf of A.T.,

Respondent.

Stacey T. Cherry, Esq., for petitioner Upper Freehold Regional Board of
Education(Fogarty & Hara, attorneys)

S.T., on behalf of A.T., respondent, pro se

Record Closed: January 7, 2020

Decided: January 9, 2020

BEFORE **EDWARD J. DELANOY**, DEPUTY DIRECTOR AND ALAJ:

On or about December 26, 2019, petitioner, Upper Freehold Regional Board of Education (Board), filed a due process petition with the Department of Education, Office

of Special Education Programs (OSEP). On January 6, 2020, respondent filed a notice asserting that the petition is insufficient for the following reasons: The Board has never conducted a Behavioral Adaptive Assessment for A.T., using a VABS tool or any other assessment to evaluate his social skills, communication, daily living skills, socialization, and motor skills. An IQ assessment for current cognition levels was also requested. A request for Behavioral Adaptive Evaluation was made. A follow-up auditory processing evaluation was requested. These exclusions by the Board occurred in conjunction with the effort led by the Board's Director of Special Services, to remove A.T. from his out-of-district placement, without any reevaluations, as per an arbitrary and unilateral handwritten modification made to A.T.'s IEP, without prior written notice, without parental consent and prior to the May 16, 2018, IEP meeting held at A.T.'s then-OOD placement at the YALE School.

The Office of Special Education Programs transmitted this case to the Office of Administrative Law, where it was filed on January 7, 2020.

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, the child's name and address are provided. Petitioner has listed the name of the school the child is attending, and they have, in paragraphs five through nine of the petition, provided a description of the nature of the problem of the child relating to such proposed or refused initiation or change, or the facts relating to the problem. Petitioner has presented facts in support of this allegation, and therefore, has presented a basic platform sufficient to allow the respondent and a

reviewing tribunal, the ability to understand the dispute that petitioner is raising. Petitioner has also outlined, in its request for relief, its proposed resolution to the problems raised herein. As such, I am satisfied that petitioner has sufficiently outlined the facts relating to a special education problem.

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.

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 include the information required by statute and regulation for a special education matter, and that it is therefore, sufficient. There is a sufficient description of the nature of the problem relating to the proposed initiation or change. In addition, petitioner has sufficiently outlined the facts relating to a special education problem, and a proposed resolution of the issues.

I therefore **CONCLUDE** that the petition is sufficient. I **ORDER** that the case be returned to OSEP and that the parties proceed with the resolution session or mediation.

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).



January 9, 2020

DATE

EDWARD J. DELANOY, JR.
DEPUTY DIRECTOR & ALAJ

Date Received at Agency:

Date Sent to Parties:

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