

State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

DECISION

SUFFICIENCY OF COMPLAINT

OAL DKT. NO. EDS 8358-14

AGENCY DKT. NO. 2014 21385

K.M. and T.M. on behalf of R.M.,

Petitioners,

v.

KEYPORT BOARD OF EDUCATION,

Respondent.

K.M. and T.M., on behalf of R.M., petitioners, pro se

Jodi Howlett, Esq., for respondent (Cleary, Giacobbe, Alfieri & Jacobs, LLC,
attorneys)

Record Closed: July 7, 2014

Decided: July 10, 2014

BEFORE **LISA JAMES-BEAVERS**, ALJ:

On June 19, 2014, petitioner filed a due process complaint with the Department of Education, Office of Special Education Programs. On June 27, 2014, respondent filed a notice asserting that the complaint is insufficient for the following reasons: 1) there is no legal basis for a unilateral "conversion" of the Mediation Only Request to a request for due process prior to completion of the mediation period; the Due Process petition was untimely filed and 3) the Emergent Relief petition is untimely and insufficient as it does not comply with N.J.A.C. 6A:14-2.7. The Office of Special

Education Programs transmitted this case to the Office of Administrative Law, where it was filed on July 7, 2014.

In order to obtain a hearing on a due process complaint or to engage in a resolution session based upon a due process complaint, the petitioner's due process complaint 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), (c).

Having reviewed the filed complaint, I **FIND** and **CONCLUDE** that it includes all of the required information and is therefore sufficient. It includes the identification information in the first three requirements. It includes a description of the nature of the problem in that the petitioners do not believe that student R.M. was prepared for graduation as well as the facts setting forth regarding services R.M. was not provided that lead them to believe she is not ready. Last, it sets forth a proposed resolution to the problem, which would be continuation of R.M.'s education. The issues raised by respondent in the sufficiency challenge, namely improper conversion of mediation and untimely filing of the due process petition and emergent relief application, may be grounds for summary decision. However, sufficiency is based on only the factors above, which petitioners have met.

Therefore, I **ORDER** that the sufficiency challenge be **DENIED** and the case be returned to the Office of Special Education and that the parties proceed with a local resolution session.

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).

July 10, 2014 _____

DATE

LISA JAMES-BEAVERS, ALJ

Date Received at Agency:

Date Sent to Parties:

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