



FILED  
OSAH

OCT 29 2014

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA

B.T.,  
Petitioner,

Docket No.  
OSAH-DOE-SE-1511371-67-Kennedy

*K. Westray*  
Kevin Westray, Legal Assistant

v.

GWINNETT COUNTY SCHOOL  
DISTRICT,  
Respondent

**ORDER OF DISMISSAL  
WITHOUT PREJUDICE**

Petitioner filed a Due Process Complaint on September 4, 2014. On September 23, 2014, Respondent filed a Notice of Insufficiency. On September 29, 2014, the court entered an Order finding that Petitioner's Due Process Complaint was insufficient, but granted Petitioner an opportunity to amend his complaint to come into compliance with the requirements of the Individuals with Disability Education Act (IDEA).

Petitioner filed a letter with the court on October 15, 2014. In the letter, Petitioner asserts that the basis of his Due Process Complaint, in part, is the result of Rockbridge Elementary school forging Petitioner's Individual Education Plan (IEP) by changing the designated location where services would be rendered without parental consent or knowledge. Petitioner states that the change "would have" caused him to be placed in a self-contained classroom and "would have" caused him to ride the "bus designated for children with special needs." Petitioner further alleges that his teacher said he was "too needy," she dissuaded him from his dream to become a police officer, she ignored him, and she marked correct answers as incorrect.

Petitioner asserts that Rockbridge Elementary school's aforementioned actions have caused undue stress and have damaged Petitioner's self-esteem. Petitioner further asserts that the school system has failed to apologize,<sup>1</sup> has failed to acknowledge the emotional and psychological toll that has been placed on Petitioner and his family as a

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<sup>1</sup> Although Petitioner asserts Respondent has failed to apologize, subsequently in the letter Petitioner states that Ms. Everett-Truppi apologized, but indicated she was not clear as to what services Petitioner was not receiving.

result of the school's actions, and has failed to investigate how the IEP came to be changed without parental knowledge or consent. Petitioner further states that the school's actions have adversely affected his mother's health,<sup>2</sup> peace of mind and employment, and his family, in general.

Although Petitioner states in his letter that Respondent has "no plan in place to repair the damage" or to "admit to wrongdoing," at no time does Petitioner provide a proposed resolution.

Respondent filed a Notice of Insufficiency regarding the Amended Complaint on October 23, 2014, asserting that it, like the original complaint, fails to comply with the requirements of IDEA by failing to provide a specific proposed resolution. 20 U.S.C. § 1415(b)(7)(A)(ii)(IV). For the reasons set forth below, the Court agrees with Respondent and finds the Amended Complaint insufficient. 20 U.S.C. § 1415(c)(2)(D).

A party wishing to initiate a due process hearing under IDEA is required to file a "complaint notice" regarding "any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." 20 U.S.C. § 1415(b)(6)(A).

IDEA requires that the due process complaint notice include:

(IV) a proposed resolution of the problem to the extent known and available to the party at the time.  
20 U.S.C. § 1415(b)(7)(A)(ii).

Respondent asserts that Petitioner has failed to suggest a manner in which a resolution could be crafted if a denial of a free and appropriate education (FAPE) could be established.

IDEA contemplates that the parties and the Court will have available both a sufficient description of the nature of Petitioner's claim *and* a proposed resolution so that a resolution session may be convened as required by the statute where the appropriate parties are present to discuss resolution of the issues. The Court finds the Amended Complaint submitted by Petitioner does not meet the statutory requirements of IDEA because it does not include a proposed resolution that could be considered by the court.

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<sup>2</sup> Petitioner's mother has been "unable to sleep and eat."

Instead, Petitioner's only proposed resolution is a "full blown investigation," though it is not clear from the complaint what Petitioner wants to have investigated other than the altered IEP.

The Court **FINDS** Petitioner's Amended Complaint to be insufficient. Petitioner has already been given an opportunity in this matter to amend his complaint to come into compliance with IDEA by providing a proposed resolution. A party may not have a due process hearing until that party, or the attorney representing the party, files a notice that meets the applicable requirements. 20 U.S.C. § 1415(b)((7)(B). Inasmuch as Petitioner's original complaint and his amended complaint both fail to comply with the requirements of IDEA, the court hereby **DISMISSES** this case without prejudice.

This 28<sup>th</sup> day of October, 2014.



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Ana Kennedy  
Administrative Law Judge