

**STATE OF RHODE ISLAND DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION SPECIAL EDUCATION HEARING**

<b>IN THE MATTER OF:</b>	:	
	:	
<b>MJ</b>	:	<b>Complaint No. LL-18-02</b>
	:	
<b>v.</b>	:	
	:	
<b>BARRINGTON PUBLIC SCHOOLS</b>	:	

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**DECISION AND ORDER**

**I. Background and Travel**

The undersigned Hearing Officer received a packet of information from the Rhode Island Department of Education (“RIDE”) on Friday, March 23, 2018 that included a due process complaint No. 18-02 filed by Mr. and Mrs. J, the parents of their child MJ; an objection to Barrington Public School’s (“Barrington”) Motion to Dismiss, dated March 20, 2018; two (2) letters from Mr. and Mrs. J regarding a resolution session; a resolution session reporting form Barrington; several email cover sheets from Barrington; and, a Response to the Due Process Complaint from Barrington.

On Monday, March 26, 2018 I sent out correspondence to both parties informing them that I have been appointed the Hearing Officer; requesting possible times to hold a pre-hearing conference in order to confirm the issues in dispute; address preliminary motions; develop an evidence plan; and, determine hearing times and places. Initially, I sent the correspondence out via email and later sent it via First Class U.S. Mail postage prepaid. Later that same day I received from RIDE a Notice of Insufficiency of a complaint filed by Barrington on February 28, 2018, a letter Barrington had sent to Mr. and Mrs. J on March 1, 2018, and a Motion to Dismiss dated March 16, 2018.

**II. Issues Presented**

Although this matter has come before me outside the regulatory timeframes allowed I will address the matters on the merits because it appears that the parties themselves did comply with the regulatory time frame requirements.

Barrington's Notice of Insufficiency, dated February 28, 2018, invoke State of Rhode Island Board of Education Regulations Governing the Education of Children with Disabilities § 300.508 (d) to allege that Mr. and Mrs. J's complaint is insufficient. Specifically, Barrington alleges that the complaint "fails to describe the nature of the problem relating to any proposed or refused initiation or change to the provision of services set forth in [M's] IEP", nor does the complaint offer a proposed resolution that relates to [M's] Individual Education Plan ("IEP").

§ 300.508(d)(2) requires that "[w]ithin five days of receipt of [this] notification...the hearing officer must make a determination of the face of the due process complaint of whether the due process complaint meets the requirements of paragraph (b) of this section, and must immediately notify the parties of that determination." *Id.* The contents of a due process complaint must include the name of the child, address and residence of the child, the name of the school the child is attending, or alternatively their contact information in the case of a homeless child, and a description of the nature of the problem relating to the proposed or refused initiation or change of the child's IEP, including facts relating to the problem and a proposed resolution. *Id.* at § 300.508(b).

Mr. and Mrs. J's complaint is dated on February 13, 2018 and is seven (7) pages long. It does provide the child's name, and an address that appears to satisfy the address requirements. The initial two (2) pages make a number of serious allegations about being assaulted and harassed. Purportedly, as a result their child "has not been able to fully participate in her educational placement at Barrington High School since the assault." They further allege that Barrington "had not provided MJ the necessary support to succeed with edgenuity." As it relates to MJ, they also appear to allege that Barrington refuses to acknowledge that MJ's medical issues have contributed to her lack of attendance in school because the district filed a truancy complaint against them. The parents also charge that Barrington would not permit MJ's brother to attend Barrington schools with support. The subsequent pages outline in detail an incident at a Barrington school in which Mr. and Mrs. J were purportedly harassed by school officials. While this portion of the complaint does allege that MJ "was feeling sad about being bullied and ostracized in school" in primarily discusses how the parents were supposedly treated by school officials. It also states that the

parents took MJ from school “so that she would not be subjected to disparate and hostile treatment at Barrington High School.” Later on in the complaint it does allege that there an “ongoing dispute (3 years) but it does not state any facts relating to the dispute. The last page and a half of the complaint makes a number of conclusory comments without any facts. And lastly, in the last paragraph of the complaint the parents state that “the best solution is for MJ to attend a school outside of Barrington in a non-hostile environment.”

From all of the information I have seen to date, Mr. and Mrs. J are representing themselves and their child *pro se*.<sup>1</sup> *Pro se* litigant complaints are to be read with leniency in favor of the litigant. *Ayinkamiye v. Rhode Island College and State of Rhode Island*, Report and Recommendation of U.S. District Court for the District of RI, C.A. No. 17-54S; also see *Erickson v. Pardus*, 551 U.S. 89,94 (2007)(“A *pro se* complaint, however in artfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.”) *Id.*

The complaint alleges a number of serious assault and harassment allegations against the parents, as opposed to MJ that this hearing officer will not opine on because it is significantly outside the scope of this proceeding. It does allege that MJ has not been able to fully participate in her educational placement but does not provide any facts as to why that is the case. It also states that Barrington “has not provided MJ the necessary supports to succeed” but does not provide any facts as to what existing supports MJ has, how Barrington has not provided supports, or what supports they should include in her IEP. The complaint also alleges that Barrington refuses to acknowledge MJ’s medical issues but does not say how they are refusing to other than to state that the district-initiated truancy proceedings. The parents do not state what the medical issues are, why they are keeping MJ out of school, and whether or not there should be any additional provisions inserted into her IEP to address this concern. The complaint went on to make a number of allegations relative to conspiracies of government agencies that do not provide any insight into their IDEA complaint and concerns. Towards the end of their complaint the parents make a number of conclusory

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<sup>1</sup> A *pro se* litigant is a person appearing on his or her own behalf and who does not retain a lawyer to represent himself or herself. Black’s Law Dictionary, 5<sup>th</sup> Ed.

allegations that are not related to facts that they allege in the beginning of their complaint. The parents then close their complaint with a proposed resolution of having MJ attend a school outside of Barrington. But, again, they do not provide a factual foundation for this.

Even when reading the parents complaint “with leniency in favor of” them, I have determined that it does not meet the requirements of § 500.508(d). This complaint does not even allege that Barrington proposed a change in the identification, evaluation, or placement of MJ. The only possible “problem” or issue that the parents could raise as a basis for their due process complaint is placement. However, the parents do not provide any factual foundation for why that is; only conclusory statements, on how Barrington harassing the parents and MJ, or that the district is not providing the services in MJ’s current IEP. Even so they do not say what services the district is not providing. Accordingly, the parents’ complaint does not meet the requirements of sufficiency in § 300.508(d). Therefore, their complaint is dismissed without prejudice; meaning they can refile. If they do however they will need comply with § 300.508.<sup>2</sup>

/s/Gregory A. Mancini  
**Gregory A. Mancini, Esq. RI Bar No. 5740**  
State of Rhode Island Department of Education  
Independent Due Process Hearing Officer

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<sup>2</sup> Barrington has also filed a Motion to Dismiss. In light of this ruling I will not rule on it. However, if the parents do refile the parties can “agree in writing to waive the resolution meeting” (see, §300.510(c)(1))so that this matter can proceed to a hearing. I only note this because it appears that MJ is not in school and may not be getting any education.