



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

SUFFICIENCY CHALLENGE

OAL DKT. NO. EDS 03588-23

AGENCY DKT. NO. 2023-35753

C.A. ON BEHALF OF M.A.,

Petitioner,

v.

HOLMDEL TOWNSHIP

BOARD OF EDUCATION,

Respondent.

C.A., petitioner, pro se

Robin S. Ballard, Esq., for respondent (Schenck, Price, Smith & King, LLP,
attorneys)

Record Closed: May 8, 2023

Decided: May 8, 2023

BEFORE **BARRY E. MOSCOWITZ**, CALJ:

STATEMENT OF THE CASE

This decision addresses a sufficiency challenge under 20 U.S.C. § 1415(c)(2)(A), 34 C.F.R. § 300.508(d) (2019), and N.J.A.C. 6A:14-2.7(f).

FINDINGS OF FACT

Based on the documents submitted concerning this sufficiency challenge, I **FIND** the following as **FACT**:

On April 21, 2023, petitioner filed a request for due process hearing with the Department of Education, Office of Special Education (OSE), seeking to change the educational placement of her son.

On April 26, 2023, respondent filed a sufficiency challenge with OSE under 20 U.S.C. § 1415(c)(2)(A), 34 C.F.R. § 300.508(d) (2019), and N.J.A.C. 6A:14-2.7(f), asserting that this due process complaint does not meet the requirements of 20 U.S.C. § 1415(b)(7)(A).

On May 1, 2023, OSE transmitted the case to the Office of Administrative Law (OAL) under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, and the Special Education Program, N.J.A.C. 1:6A-1.1 to -18.4.

CONCLUSIONS OF LAW

Under 20 U.S.C. § 1415(b)(7)(A), a due process complaint must provide notice of the following:

(I) the name of the child, the address of the residence of the child (or available contact information in the case of a homeless child), and the name of the school the child is attending;

(II) in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child and the name of the school the child is attending;

(III) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

(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).]

Meanwhile, in New Jersey, a due process complaint may only be filed concerning the following issues: the identification, the evaluation, the reevaluation, the classification, the educational placement, the provision of FAPE (a free, appropriate, public education), or the discipline of the child. N.J.A.C. 6A:14-2.7(a).

In this case, petitioner filed a due process complaint regarding the educational placement of her son. Respondent argues that petitioner's challenge is improper because it is based on medical (not educational) need, but that is a matter of interpretation. In other words, it is not an established fact of the case. As such, the argument is premature. Accordingly, I **CONCLUDE** that the notice contained in the due process complaint is sufficient under 20 U.S.C. § 1415(b)(7)(A).

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the due process complaint in this case is **SUFFICIENT**, and that the timelines for conducting a due process hearing shall continue.

This decision is final under 20 U.S.C. § 1415(i)(1)(A) and is appealable under 20 U.S.C. § 1415(g)(2) by filing a petition and bringing a civil action in the Law Division of the Superior Court of New Jersey or in a district court of the United States.

May 8, 2023

DATE



BARRY E. MOSCOWITZ
Acting Director and Chief ALJ

Date Received at Agency: May 8, 2023

Date Sent to Parties: May 8, 2023

dr