



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**FINAL DECISION**

**SUFFICIENCY OF COMPLAINT**

OAL DKT. NO. EDS 07539-18

AGENCY DKT. NO. 2018 27999

**E.S. AND S.S. ON BEHALF OF M.S.,**

Petitioners,

v.

**LAWRENCE TOWNSHIP BOARD OF EDUCATION,**

Respondent.

---

**Paul Prior**, Esq. for Petitioner (Hinkle, Fingles & Prior, attorneys)

**Brett Gorman**, Esq., for Respondent (Parker McCay, P.A., attorneys)

Record Closed: May 25, 2018

Decided: May 29, 2018

BEFORE **ELLEN S. BASS**, ALJ:

Petitioners, E.S. and S.S., on behalf of their child, M.S., filed a request for due process under N.J.A.C. 6A:14-2.7, on May 9, 2018. On May 24, 2018, the Lawrence Township Board of Education (the Board) filed a notice asserting that the petition is insufficient. N.J.A.C. 6A:14-2.7(f); 20 U.S.C. §1415(c)(2)(A); 34 C.F.R. §300.508(d). The Office of Special Education Programs (OSEP) transmitted this case to the Office of Administrative Law (OAL) for a sufficiency ruling, where it was filed on May 25, 2018.

N.J.A.C. 6A:14-2.7(f) provides that “a request for a due process hearing, or expedited due process hearing (for disciplinary issues) serves as notice to the

respondent of the issues in the due process complaint.” Via its request for a sufficiency ruling, the Board urges that this request does “not identify a dispute that would give rise to a due process hearing under the Individuals with Disabilities Education Act...”

In order to obtain a hearing on a due process complaint, or to engage in a resolution session, the petitioner must provide the following information: 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).

I **FIND** that the petition includes the information required by the statutes and regulations governing special education due process petitions. And although the Board contends otherwise, the petition explains the nature of the problem, and proposes a resolution. The parties appear to have agreed that M.S. should receive twice weekly “multi-sensory instruction.” The “nature of the problem” is narrow and clear; that is, whether the Board is obliged to name a specific multisensory reading program (here, Wilson Reading) in the Individualized Instructional Program (IEP). The petition avers that the Board’s failure to specifically include Wilson instruction in M.S.’s IEP denies her FAPE. Petitioners are also quite clear about the “proposed resolution.” They seek an out-of-district placement; compensatory education; and reimbursement for educational expenses incurred.

I **CONCLUDE** that these petitioners have filed a sufficient due process petition. Counsel for the Board misapprehends the purpose of the sufficiency challenge. It is a mechanism that should be used sparingly, and only when a responding school district cannot discern the claims it is being called upon to defend. Here, the Board knows both what the petitioners contend, and what relief they seek. It asserts that their claims lack merit. But the merits of the parties’ claims are a matter for determination at plenary hearing, or via a fully briefed motion for summary decision.

I therefore **ORDER** that the case be returned to the Office of Special Education Programs and that the parties proceed with the requested mediation.

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); 34 C.F.R. § 300.516 (2007).

May 29, 2018



---

DATE

---

**ELLEN S. BASS, ALJ**

Date Received at Agency

---



Date Mailed to Parties: