



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

SUFFICIENCY CHALLENGE

OAL DKT. NO. EDS 01303-20

AGENCY DKT. NO. 2020-31152

E.H. ON BEHALF OF N.H.,

Petitioner,

v.

FRANKLIN LAKES BORO

BOARD OF EDUCATION,

Respondent.

Record Closed: January 30, 2020

Decided: January 30, 2020

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

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).

PROCEDURAL HISTORY AND FINDINGS OF FACT

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

On January 23, 2020, petitioner filed a request for due process hearing with the Department of Education, Office of Special Education Programs (OSEP).

On January 27, 2020, respondent filed a sufficiency challenge to this request 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).

On January 15, 2020, OSEP transmitted the sufficiency challenge to the Office of Administrative Law to determine whether this request for due process hearing meets the requirements of 20 U.S.C. § 1415(b)(7)(A).

In her petition, petitioner enumerates 180 allegations, including her assertion that respondent did not provide an appropriate education for her child, but she does not propose a resolution of her problem or state the specific issues in dispute.

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).]

More pointedly, under N.J.A.C. 6A:14-2.7(c), a request for a due process hearing must state the specific issues in dispute, relevant facts, and the relief sought:

A request for a due process hearing shall be made in writing to the State Director of the Office of Special Education Programs. The party initiating the due process hearing shall send a copy of the request to the other party. The written request shall note that a copy has been sent to the other party. The written request shall include the student's name, student's address, the student's date of birth, the name of the school the student is attending and shall state the specific issues in dispute, relevant facts and the relief sought and, in the case of a homeless child, available contact information for the child and the name of the school the child is attending.

[N.J.A.C. 6A:14-2.7(c).]

In this case, petitioner does not propose a resolution of her problem. She merely describes the nature of her problem, which centers around how respondent processed her request for home instruction, and how respondent ultimately provided that instruction. She does not state the specific issues in dispute or the relief sought. As respondent writes, "Petitioner does not connect any of the allegations to an alleged special education dispute . . . for which she could be provided a due process hearing." Accordingly, I **CONCLUDE** that the notice contained in the due process complaint is insufficient.


ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the request for due process hearing be **DISMISSED**.

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.

January 30, 2020

DATE



BARRY E. MOSCOWITZ, ALJ

Date Received at Agency:

January 30, 2020

Date Sent to Parties:

dr