



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

**FINAL DECISION**

**SUFFICIENCY CHALLENGE**

OAL DKT. NO. EDS 03918-20

AGENCY DKT. NO. 2020-31438

**N.B. ON BEHALF OF D.M.,**

Petitioner,

v.

**UNION TOWNSHIP BOARD OF EDUCATION,**

Respondent.

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**N.B.**, petitioner, pro se

**Christine A. Soto**, Esq., for respondent (Florio, Perrucci, Steinhardt, Cappelli,  
Tipton & Taylor, LLC, attorneys)

Record Closed: March 26, 2020

Decided: March 26, 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).

## FINDINGS OF FACT

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

On March 20, 2020, petitioner filed a request for an expedited due process hearing for disciplinary matters only with the Department of Education, Office of Special Education Policy and Dispute Resolution (OSEPDR), but after reviewing the request, OSEPDR determined that the request for an expedited due process hearing for disciplinary matters only did not meet the requirements for such an expedited due process hearing.

On March 24, 2020, respondent filed a sufficiency challenge with OSEPDR 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), and OSEPDR 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 described the nature of the problem of the child relating to a proposed initiation or change of her child's Individualized Education Program (IEP), but petitioner failed to state the specific facts relating to the problem. Stated otherwise, the request for a due process hearing fails to state the specific issues in dispute and the relevant facts. Moreover, the mechanism by which petitioner can obtain the relief she seeks is not through a due process hearing but through another IEP meeting.

Respondent summarizes these insufficiencies in its challenge:

Specifically, the Petition alludes to problems in school related to D.M.'s behavior but provides no relevant facts to determine the issues in dispute. Moreover, the relief sought for these unspecified behavioral problems is an unrelated list of IEP requests. Simply put, Petitioner has not identified any relief sought in her Petitioner that would resolve a specific issue in dispute. If Petitioner's is seeking a series of IEP requests, she is in the wrong forum. The appropriate course of action is for Petitioner to request an IEP meeting to discuss each request with the IEP Team.

## **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 describes the nature of the problem of her child relating to a proposed initiation or change in her child's IEP, but fails to state the specific facts

relating to the problem. More significantly, the mechanism through which petitioner can obtain the relief she seeks is not through a due process hearing but through another IEP meeting. As a result, I **CONCLUDE** that the notice contained in the due process complaint is **INSUFFICIENT**, and that the due process hearing should be **DISMISSED**, but that an IEP meeting should be convened to address the behavioral problems petitioner references in her complaint.

**ORDER**

Given my findings of fact and conclusions of law, I **ORDER** that the request for due process hearing is hereby **DISMISSED**, but I further **ORDER** that an IEP meeting be convened within the next thirty days to address the behavioral problems petitioner references in her request for due process hearing.

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.



March 26, 2020

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DATE

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**BARRY E. MOSCOWITZ, ALJ**

Date Received at Agency:

\_\_\_\_\_  
March 26, 2020

Date Sent to Parties:

\_\_\_\_\_  
March 26, 2020

sej