



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

**FINAL DECISION**

**SUFFICIENCY CHALLENGE**

OAL DKT. NO. EDS 01088-23

AGENCY DKT. NO. 2023-35429

**A.M. ON BEHALF OF J.A.,**

Petitioner,

v.

**BAYONNE CITY**

**BOARD OF EDUCATION,**

Respondent.

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**A.M.**, petitioner, pro se

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

Record Closed: February 8, 2023

Decided: February 9, 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 January 30, 2023, petitioner filed a complaint, a request for due process hearing, with the Department of Education, Office of Special Education (OSE), alleging that her son was having a “hard time with a few teachers and life issues,” that he was “struggling with various tasks in EIA,” and that removal from his school would be “detrimental to his continued growth and emotional well-being.” It provides no greater specificity. It merely appends an editorial about education for all children.

On February 2, 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 February 3, 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 none of the issues set forth in N.J.A.C. 6A:14-2.7(a). Petitioner has even failed to describe the nature of the problem and the facts relating to the problem under 20 U.S.C. § 1415(b)(7)(A)(ii). In fact, as respondent rightly notes, petitioner references a transfer to a school but does not identify the school or describe how that transfer has affected the education of her child. Finally, petitioner seeks removal of a teacher and better training for staff—none of which is tied to the education at issue and none of which could be ordered in this case.

Therefore, I **CONCLUDE** that the notice contained in the due process complaint is insufficient 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 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.

February 9, 2022

DATE

  
**BARRY E. MOSCOWITZ**

Acting Director and Chief ALJ

Date Received at Agency:

February 9, 2023

Date Sent to Parties:

February 9, 2023

dr