



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

SUFFICIENCY CHALLENGE

OAL DKT. NO. EDS 02115-26

AGENCY DKT. NO. 2026-40337

M.S. AND K.S. ON BEHALF OF K.S.,

Petitioners,

v.

SUSSEX-WANTAGE REGIONAL

BOARD OF EDUCATION,

Respondent.

M.S. and K.S., petitioners, pro se

Frances L. Febres, Esq., for respondent (Cleary, Giacobbe, Alfieri, Jacobs, LLC,
attorneys)

Record Closed: February 9, 2026

Decided: February 9, 2026

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 27, 2026, petitioners, M.S. and K.S. on behalf of K.S., filed a request for due process hearing with the Department of Education, Office of Special Education (OSE), against respondent, Sussex-Wantage Regional Board of Education. In their request for due process, petitioners assert that respondent denied K.S. a free, appropriate public education (FAPE) in the least restrictive environment (LRE) because the Sussex-Wantage Regional School District placed their son on home instruction pending an out-of-district placement. Petitioners conclude that this case can be resolved by convening a facilitated IEP team meeting.

In response, on February 4, 2026, respondent filed a sufficiency challenge with the 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). In its sufficiency challenge, respondent asserts that this case must be dismissed because petitioners filed their request for due process hearing against the wrong party. Respondent specifies that it placed K.S. at the Rolling Hills Primary School in the Vernon Township School District through a sending-receiving agreement with the Vernon Township Board of Education but that it was the Vernon Township School District and not the Sussex-Wantage Regional School District that removed K.S. from his placement at Rolling Hills Primary School and placed him on home instruction. In addition, respondent asserts that this case must be dismissed because petitioners filed their request for due process hearing for relief that cannot be obtained through such a proceeding, namely a facilitated IEP team meeting. As a result, respondent concludes that the request for due process hearing is insufficient and that this case must be dismissed.

On February 4, 2026, the OSE transmitted the sufficiency challenge 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, where it was filed on February 5, 2026.

CONCLUSIONS OF LAW

Under 20 U.S.C. § 1415(b)(7)(A), a due process complaint must include 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).]

In this case, respondent asserts that this case is insufficient and must be dismissed because petitioners filed a due process complaint against the wrong party and for relief that cannot be obtained through a due process hearing. These arguments, however, do not address the sufficiency of the complaint. They address the merits of the case. Meanwhile, the due process complaint provides notice of all the requirements under 20 U.S.C. § 1415(b)(7)(A). Therefore, I **CONCLUDE** that the notice contained in the due process complaint is sufficient under the law.

Parenthetically, an administrative law judge can order a facilitated IEP team meeting as a remedy.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the sufficiency challenge is **DENIED**, and that the timelines for conducting a due process hearing must **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 the United States District Court for the State of New Jersey.

February 9, 2026

DATE



BARRY E. MOSCOWITZ
Director and Chief ALJ

Date Received at Agency: February 9, 2026

Date Sent to Parties: February 9, 2026

dr