



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

**FINAL DECISION**

**SUFFICIENCY CHALLENGE**

OAL DKT. NO. EDS 03423-21

AGENCY DKT. NO. 2021-32674

**B.S. AND A.S. ON BEHALF OF A.S.,**

Petitioners,

v.

**LEBANON TOWNSHIP BOARD OF  
EDUCATION,**

Respondent.

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Record Closed: April 20, 2021

Decided: April 20, 2021

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) (2020), 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 April 8, 2021, petitioners filed a request for due process hearing with the Department of Education, Office of Special Education Policy and Dispute Resolution (SPDR).

On April 15, 2021, respondent filed a sufficiency challenge with SPDR under 20 U.S.C. § 1415(c)(2)(A), 34 C.F.R. § 300.508(d) (2020), and N.J.A.C. 6A:14-2.7(f) to determine whether this request for due process hearing meets the requirements of 20 U.S.C. § 1415(b)(7)(A).

On that same date, SPDR 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 Office of Administrative Law, 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.

The due process complaint is extensive: It is thirty-six pages long and contains thirty-two separate complaints.

In their complaint, petitioners seek compensatory education, including behavioral support services, home instruction services, and speech therapy, among other forms of relief, for alleged violations of the Individuals with Disabilities Education Act (IDEA), including a denial of a free appropriate public education (FAPE) for numerous school years, 2017–2021.

### **CONCLUSIONS OF LAW**

Under 20 U.S.C. § 1415(b)(7)(A), a due process complaint must provide notice of the following:

- (l) 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).]

Likewise, N.J.A.C. 6A:14-2.7(c) requires, among other things, “the specific issues in dispute, relevant facts, and the relief sought.”

In this case, respondent argues that petitioners fail to provide “the specific issues in dispute, relevant facts, and the relief sought,” as N.J.A.C. 6A:14-2.7(c) requires.

In short, petitioners have provided the specific issues in dispute, the relevant facts, and the relief sought. Again, petitioners’ complaint is extensive. So, while respondent argues that the complaint is not specific enough, and that petitioners are not entitled to the relief they seek, including the argument that the claims alleged and the relief sought are outside the statute of limitations, the complaint provides enough specificity to survive this challenge, especially since petitioners need only provide “a description of the nature of the problem” and “a proposed resolution of the problem.” Ultimately, these challenges that respondent raises in this filing are for the administrative law judge to whom this case is assigned to determine. As such, none of these challenges are foreclosed, and respondent is within its rights to raise them during the initial prehearing conference, at which time the nature of the proceedings and the issues to be resolved, among other items, including whether any motions are contemplated (such as one concerning the statute of limitations as a threshold issue), are to be discussed under N.J.A.C. 1:1-13.2.

Given this discussion, I **CONCLUDE** that the notice contained in the due process complaint is sufficient and that the timelines for conducting a due process hearing should continue.

**ORDER**

Given my findings of fact and conclusions of law, I **ORDER** that the request for due process hearing is **SUFFICIENT**, and that the timelines for conducting a due process hearing shall 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 a district court of the United States.

April 20, 2021

DATE

  
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**BARRY E. MOSCOWITZ, ALJ**

Date Received at Agency:

April 20, 2021

Date Sent to Parties:

April 20, 2021

dr