



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

SUFFICIENCY CHALLENGE

OAL DKT. NO. EDS 04683-22

AGENCY DKT. NO. 2022-34433

M.B. ON BEHALF OF T.B.,

Petitioner,

v.

EWING TOWNSHIP BOARD OF EDUCATION,

Respondent.

M.B., petitioner, pro se

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

Record Closed: June 21, 2022

Decided: June 22, 2022

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 June 3, 2022, petitioner filed a request for due process hearing with the Department of Education, Office of Special Education (OSE).

On June 10, 2022, 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), to determine whether this request for due process hearing meets the requirements of 20 U.S.C. § 1415(b)(7)(A).

On June 10, 2022, 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.

In her request for due process hearing, petitioner writes that her son's behaviors relate to his disability, and that his educational program needs the following features, as a result: structure, extra time, clearly understood expectations, small-class size, multisensory learning, and social-emotional support.

CONCLUSIONS OF LAW

Under N.J.A.C. 6A:14-2.7(c), a request for due process hearing must include the relevant facts, the specific disputed issues, and what relief is being sought." Respondent argues that petitioner's request does not include any of these. To me, a fair reading of the request for due process hearing does contain these things, that is, it provides the relevant facts (the behaviors), the specific issues (whether the current educational program is appropriate given the implied absence of the above features), and what relief is being sought (those features). Therefore, I **CONCLUDE** that the notice contained in

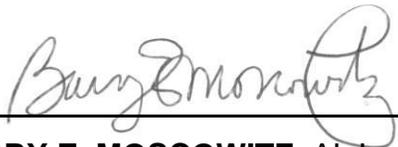
the request for due process hearing is sufficient under the law, and that the timelines for conducting a due process hearing should continue.

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.

June 22, 2022
DATE


BARRY E. MOSCOWITZ, ALJ

Date Received at Agency: June 22, 2022

Date Sent to Parties: June 22, 2022

dr