



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

FAILURE TO APPEAR

OAL DKT. NO. EDS 5333-18

AGENCY DKT. NO. 2018 27829

G.F. ON BEHALF OF S.F.,

Petitioner,

v.

EWING TOWNSHIP BOARD

OF EDUCATION,

Respondent.

No appearance by G.F., petitioner, pro se

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

Record Closed: April 17, 2018

Decided: April 18, 2018

BEFORE **ELAINE B. FRICK, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

The petitioner, G.F., filed an emergent petition against the Ewing Township Board of Education, alleging his daughter, S.F., is currently not receiving services, and sought placement of S.F. in the Ewing Township School District. The Office of Special

Education Policy and Procedure, of the New Jersey Department of Education, transmitted this matter to the Office of Administrative Law (OAL), where it was filed on April 13, 2018, for an emergent hearing.

An emergent hearing was scheduled for April 17, 2018, at 9:30 a.m. at the OAL, 9 Quakerbridge Plaza, Mercerville, NJ 08619. The petitioner, G.F., did not appear.

FINDINGS OF FACT

I **FIND** the following as **FACTS**:

1. An emergent hearing was scheduled for April 17, 2018.
2. On or about April 13, 2018, the petitioner was advised the emergent hearing would be held on April 17, 2018, at 9:30 a.m., at the Office of Administrative Law, 9 Quakerbridge Plaza, Mercerville, NJ 08619.
3. Petitioner, G.F., did not appear at the OAL for the 9:30 a.m. hearing on April 17, 2018.
4. At approximately 10:15 a.m., I advised respondent's counsel, Robin Ballard, Esq. that the file would be marked "Failure to Appear."
5. G.F. did not contact any representative of the OAL on April 17, 2018, or prior to that date, to advise that he was unable to appear.
6. G.F. did not contact any representative of the OAL on April 18, 2018, to explain why he did not appear at the scheduled hearing of April 17, 2018.

LEGAL ANALYSIS AND CONCLUSION

New Jersey Administrative Code 1:1-14.4(a) provides that, if, after appropriate notice, a party does not appear in any proceeding scheduled by a judge, the judge shall hold the matter for one day before taking any action. If the judge does not receive an explanation for the nonappearance within one day, the judge may direct the Clerk to return the matter to the transmitting agency for appropriate disposition.

G.F. failed to appear at the scheduled proceeding and failed to provide a documented explanation for his nonappearance one day following his nonappearance.

Based upon the facts and the applicable law, I **CONCLUDE** that petitioner has failed to appear, has abandoned this matter, and that it should be returned to the transmitting agency.

ORDER

It is **ORDERED** that the Clerk return this matter to the Office of Special Education Policy and Procedure of the New Jersey Department of Education.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2017) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. § 300.516 (2017). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education Programs.



April 18, 2018
DATE

ELAINE B. FRICK, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

mph