

100-24
OAL Dkt. No. EDU 05923-23
Agency Dkt. No. 171-6/23

New Jersey Commissioner of Education
Final Decision

R.G., on behalf of minor child, F.G.,

Petitioner,

v.

Board of Education of the Township of
Gloucester, Camden County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL), dismissing the petitioner's appeal for failure to appear at five scheduled appearance before the Administrative Law Judge (ALJ), have been reviewed and considered.

The petitioner filed a *pro se* appeal challenging the Board's determination that R.G. and her child were not domiciled within the respondent Board's school district, and that F.G. should accordingly be disenrolled and tuition assessed for the period of F.G.'s ineligible attendance in Gloucester Township schools. The matter was transmitted to the OAL and filed as a contested case on July 6, 2023. Petitioner failed to appear at five pre-hearing conferences despite having received appropriate notice of each conference date. Accordingly, the ALJ concluded that the matter must be dismissed pursuant to *N.J.A.C. 1:1-14.4* for petitioner's failure to appear.

Upon review, the Commissioner concurs with the ALJ that the petition must be dismissed. Accordingly, the Initial Decision is adopted as the final decision in this matter. The petition of appeal is hereby dismissed.

IT IS SO ORDERED.



ACTING COMMISSIONER OF EDUCATION

Date of Decision: February 5, 2024
Date of Mailing: February 7, 2024



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. EDU 05923-23

AGENCY DKT. NO. 171-6/23

R.G. ON BEHALF OF MINOR CHILD F.G.,

Petitioner,

v.

**TOWNSHIP OF GLOUCESTER BOARD OF
EDUCATION, CAMDEN COUNTY,**

Respondent.

R.G., petitioner, pro se

Daniel H. Long, Esq., for respondent (Wade, Long, Wood & Long, LLC, attorneys)

Record Closed: January 9, 2024

Decided: January 22, 2024

BEFORE **NICOLE T. MINUTOLI**, ALJ:

STATEMENT OF THE CASE

Petitioner, R.G. on behalf of her minor child F.G., appeals the determination of the respondent, the Township of Gloucester Board of Education (Board or District), that F.G. is not domiciled in its district, should be disenrolled, and assessing all back tuition charges for the days of illegal attendance.

PROCEDURAL HISTORY

Petitioner filed an appeal with the Department of Education (Department) on June 21, 2023. The Board filed an answer on July 5, 2023. The matter was transmitted to the Office of Administrative Law (OAL), where on July 6, 2023, it was filed as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

A prehearing telephone conference was scheduled for July 24, 2023, but R.G. failed to appear. She also failed to appear for a subsequent conference but appeared for the August 30, 2023, conference, during which the parties agreed that F.G. is now domiciled within the District. Respondent stated that it would not pursue tuition costs for the time period F.G. was not domiciled within the District and R.G. agreed to withdraw the appeal. The withdrawal was not received and R.G. failed to appear for the October 12, 2023, conference call.

On October 13, 2023, notice was sent to the parties of a telephone conference on November 29, 2023, through regular mail and email. A dial-in number was provided. The notice stated in bold and highlighted print:

If you do not participate in the prehearing conference, the file will be returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party.

R.G. failed to appear for the November 29, 2023, telephone conference. R.G. failed to notify my office in advance or to request an adjournment. During the call, respondent stated that he continued to attempt to contact R.G. to obtain a letter of withdrawal, without response.

On November 30, 2023, notice was sent to the parties of a telephone conference on January 5, 2024, through regular mail and email. A dial-in number was provided. R.G. failed to appear for the January 5, 2024, telephone conference. R.G. failed to notify my office in advance or to request an adjournment. During the call, respondent stated that

F.G. is currently domiciled within the District and is therefore entitled to a free appropriate public education (FAPE) within the Gloucester Township School District. Respondent confirmed that it will not be pursuing tuition costs for the time period F.G. was not domiciled within the District.

APPLICABLE LAW

N.J.A.C. 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.¹

CONCLUSION

Because the petitioner has failed to appear for five scheduled appearances before me without providing good cause for her failure to participate, I **CONCLUDE** that the appeal filed by the petitioner must be dismissed.

ORDER

Based upon the above, I **ORDER** that the petitioner's appeal is **DISMISSED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of

¹ R.G. attended one scheduled conference call, where she stated, and the District confirmed, that F.G. is now domiciled within the District and is therefore entitled to a FAPE from the Gloucester Township School District; the residency appeal has been entirely resolved and is moot.

Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

January 22, 2024

DATE



NICOLE T. MINUTOLI, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

NTM/dw