



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

**DECISION GRANTING DISTRICT'S
REQUEST TO DENY INDEPENDENT
EVALUATIONS WITHOUT PREJUDICE TO
PARENT'S ABILITY TO AGAIN REQUEST**

OAL DKT. NO. EDS 05252-19

AGENCY DKT. NO. 2019 29574

MONROE TOWNSHIP BOARD

OF EDUCATION,

Petitioner,

v.

C.G. ON BEHALF OF C.M.,

Respondent.

John J. Armano, Jr., Esq., for petitioner (Trimble & Armano, attorneys)

No appearance by or on behalf of respondent

Record closed: April 26, 2019

Decided: April 26, 2019

BEFORE JOSEPH A. ASCIONE, ALJ:

Petitioner moved for an Order deny respondent's request for an independent medical evaluation of her special education eligible son. Respondent failed to appear on the initial settlement conference date. Earlier in the week, petitioner's counsel requested his appearance be by telephone as he had a prosecutorial obligation to a municipal court. This tribunal attempted to contact respondent, unsuccessfully. Petitioner's counsel's request had been granted in the absence of consent as

respondent's contact proved unsuccessful. The tribunal informed by petitioner's counsel that the Department of Human Services, Division of Child Protection and Permanency had removed the student from C.G.'s care; however, continued placement in the same school. The rights of C.G. were not extinguished. However, the whereabouts of C.G. were unknown, and contact unsuccessful. This tribunal cannot confirm whether C.G. had notice of the within settlement conference, though notice had been sent to her last known address.

NATURE OF PROCEEDINGS AND PROCEDURAL HISTORY

Petitioner filed the within due process petition on March 18, 2019. The New Jersey Department of Education transmitted the matter to the Office of Administrative Law (OAL) on April 17, 2019. The settlement conference was noticed on April 17, 2019, for a hearing at 10:00 a.m. at the OAL, Quakerbridge offices. Respondent did not appear at that time, nor had she appeared or contacted this office within twenty-four hours thereafter.

ORDER

The petitioner's application to deny an independent evaluation of the student C.M. is **GRANTED**, without prejudice, to the parent again requesting an independent evaluation. As the parent's whereabouts and the student's circumstances unascertainable, rather than keep this matter open pending parental/guardian contact, this tribunal grants the districts request to deny the independent evaluation. If the parent again seeks the independent evaluation of her son, she may do so and the district, if opposed to the request, should refile a due process petition.

Accordingly, it is on this 26th day of April 2019, **ORDERED** that petitioner's application to deny an independent evaluation of C.M. is **GRANTED**, without prejudice to the parent again requesting same.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2018) 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 (2018). 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 26, 2019 _____

DATE

Date Received at Agency

Date Mailed to Parties:

/lam

JOSEPH A. ASCIONE, ALJ
