



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

FAILURE TO APPEAR

OAL DKT. NO. EDS 16373-18

AGENCY DKT.NO. 2019-28919

L.S. on behalf of C.J.,

Petitioner,

v.

COMMERCIAL TOWNSHIP BOARD

OF EDUCATION,

Respondent.

L.S. on behalf of C.J., petitioner, pro se

Jay Branderbit, Esquire, for respondent (Kent McBride, P.C., attorneys)

Record Closed: June 6, 2019

Decided: June 12, 2019

BEFORE **DEAN J. BUONO,** ALJ:

Petitioner, L.S., seeks placement for C.J. at Cape May Special Services School District with transportation and a bus aide, independent evaluations, increased related services, I-pad with talk-to-text, sign language instruction, compensatory services, and all other costs associated with this placement.

A settlement conference was scheduled December 6, 2018, at the Office of Administrative Law wherein petitioner, J.S. appeared. Thereafter, to accommodate the parties, several telephone conferences were held including January 17, March 14, and April 11, 2019. Another telephone conference was scheduled for June 6, 2019, but when the call was placed to petitioner by the AT&T operator, she refused to get on the telephone. A separate call was then placed to petitioner by the Office of Administrative Law (OAL) and a voice mail message was left requesting petitioner to contact the office. Petitioner did not reach out to the OAL.

CONCLUSION

Based on the foregoing 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.

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 non-appearance within one day, the judge may direct the Clerk to return the matter to the transmitting agency for appropriate disposition. J.S. failed to appear at the scheduled proceeding and she failed to provide a documented explanation for her non-appearance one day following her non-appearance. Accordingly, the Clerk should return this matter to the Office of Special Education pursuant to the above-cited rule.

ORDER

It is **ORDERED** that the Clerk return this matter to the Office of Special Education 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.



June 12, 2019

DATE

DEAN J. BUONO, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

mph