



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

FAILURE TO APPEAR

OAL DKT. NO. EDS 3752-20

AGENCY DKT. NO. 2020-31249

R.L. on behalf of M.A.,

Petitioner,

v.

**HAMILTON TOWNSHIP BOARD OF
EDUCATION,**

Respondent.

R.L. on behalf of M.A., petitioner, pro se

Michael A. Pattanite, Jr., Esq., for respondent (Lenox, Socey, Formidoni,
Giordano, Lang, Cooley & Casey, attorneys)

Record Closed: October 20, 2021

Decided: November 17, 2021

BEFORE **MARY ANN BOGAN, ALJ:**

STATEMENT OF THE CASE

Petitioner, R.L. on behalf of M.A. filed a petition seeking placement in the least restrictive environment in previous program and placement with reading support.

PROCEDURAL HISTORY AND STATEMENT OF FACTS

The Office of Special Education Policy and Dispute Resolution of the New Jersey Department of Education (Department) transmitted the petition to the Office of Administrative Law (OAL), where it was filed on March 12, 2020.

A settlement conference was scheduled for March 26, 2020, and adjourned because State offices closed due to COVID-19. The petitioner did not attend the rescheduled settlement conference on April 23, 2020, at 9:00 am. After that, the petitioner was notified to attend telephone conferences, scheduled for December 11, 2020, February 25, 2021, and May 10, 2021. The petitioner failed to attend each of the telephone conferences and did not send an explanation explaining reason for the non-appearances. Moreover, on March 29, 2021, a letter written by the undersigned was sent to petitioner stating that there were no appearances at the previously scheduled conference calls with the judge and the Board attorney. The letter further advised that the case could be withdrawn by sending a letter stating the party no longer wished to pursue the matter. The party was also informed that if no response was received, the case would be dismissed. Follow up status file checks were conducted until October 2021. The status checks revealed that the petitioner did not notify counsel or the court of the intention to pursue this matter.

ANALYSIS AND CONCLUSIONS OF 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. Petitioner failed to appear at the scheduled proceedings and failed to provide an explanation one day following the nonappearance or thereafter for each of the scheduled proceedings and did not respond to the letter written by the undersigned dated March 29, 2021. Accordingly, the Clerk should return this matter to the Department of Education.

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

ORDER

Based on the foregoing, it is hereby **ORDERED** that the petition for due process be **DISMISSED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2021) 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 (2019). 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 Policy and Dispute Resolution.

November 17, 2021 _____

DATE



MARY ANN BOGAN, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

MAB/nmn