



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

FAILURE TO APPEAR

OAL DKT. NO. EDS 07435-20

AGENCY DKT. NO. 2020-31316

E.G., on behalf of C.G.,

Petitioner,

v.

**BOARD OF EDUCATION OF THE
TRENTON PUBLIC SCHOOL DISTRICT,**

Respondent.

No appearance by or on behalf of petitioner

Elesia L. James, Assistant General Counsel, for respondent, Trenton Board of Education

Record Closed: August 27, 2021

Decided: October 18, 2021

BEFORE JUDITH LIEBERMAN, ALJ

This case arises under the Individuals with Disabilities Education Act, 20 U.S.C. §§1401 to 1484(a) and C.F.R. §§300.500. Petitioner filed her request for a due process hearing on February 26, 2020. The matter was transmitted by the Department of Education, Office of Special Education Programs (OSEP), to the Office of Administrative Law (OAL), where it was filed on August 19, 2020, as a contested case. N.J.S.A. 52:14B-

1 to B-15; N.J.S.A. 52:14F-1 to F-13. The OAL immediately contacted the parties to schedule a settlement conference. The conference was originally scheduled for August 27, 2020; however, on August 25, 2020, the District requested an adjournment of the August 27, 2020, date and the petitioner responded that her attorney would contact the OAL. The conference was then rescheduled to November 19, 2020; however, the parties were asked to confirm their availability and whether they wished to proceed on a different date. The parties did not respond to the inquiry and did not respond to additional attempts to obtain the status of the matter between November 2020 and May 2021. There was no further communication by the parties, including in response to outreach by the OAL to inquire whether the matter had been settled or withdrawn.

The matter was assigned to me on August 23, 2021. An initial status conference was scheduled to be conducted by way of telephone call on August 27, 2021. Petitioner and respondent were advised of the status conference by way of an August 24, 2021, notice that provided the date and time of the call and the dial-in information. The notice was sent to petitioner by way of email on August 24, 2021. Petitioner did not appear. Counsel for respondent appeared for the status conference. As of the date of this decision, petitioner has not contacted the OAL to explain her failure to appear or to otherwise communicate about this matter.

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. Because the petitioner has failed to appear for the scheduled appearance and has not contacted the OAL to address her failure, I **CONCLUDE** that petitioner has abandoned her appeal.


ORDER

I **ORDER** that the petition be **DISMISSED** for failure to pursue a claim of action under N.J.A.C. 1:1-14.4.

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

October 18, 2021

DATE



JUDITH LIEBERMAN, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

/mph