



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

DISMISSAL

OAL DKT. NO. EDS 02137-21

AGENCY DKT. NO. 2021-32473

D.M. ON BEHALF OF G.M.,

Petitioner,

v.

NEWARK CITY BOARD OF EDUCATION,

Respondent.

No Appearance by D.M. o/b/o G.M., petitioner, pro se

Sabrina Styza, Esq., for respondent

Record Closed: October 14, 2021

Decided: October 18, 2021

BEFORE **SUSANA E. GUERRERO, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

This case arises under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 to 1482. D.M. on behalf of G.M. filed a request for a due process hearing. The Office of Special Education Policy and Dispute Resolution of the New Jersey Department of Education transmitted the matter to the Office of Administrative Law

(OAL), where it was filed on March 1, 2021. The matter was assigned to the undersigned on March 26, 2021.

FINDINGS OF FACT

I **FIND** the following uncontested **FACTS**:

1. After numerous attempts to conduct a telephone prehearing conference, an initial conference was held on April 29, 2021 with D.M., G.M.'s father, and Sabrina Styza, Esq., on behalf of the respondent. At the conference, the parties agreed to a settlement conference.
2. A settlement conference was scheduled for June 22, 2021, via Zoom, but petitioner did not appear, and D.M. did not contact the undersigned prior to that date to request an adjournment or to advise that he could not appear on June 22, 2021.
3. The settlement conference was rescheduled and held on June 29, 2021. A settlement was not reached, and a continuation of the settlement conference was scheduled for July 15, 2021, via Zoom.
4. Again, petitioner did not appear despite emails and attempts to call D.M. to remind him of the conference that day. Petitioner again did not contact the undersigned on or after July 15, 2021, to explain the reason for his failure to appear for the scheduled proceeding.
5. The settlement conference was rescheduled and held on August 5, 2021, via Zoom, but again a settlement was not reached and D.M. stated that he was considering retaining an attorney. At the conclusion of this conference, the undersigned scheduled a telephone conference for September 1, 2021, to be attended by D.M., or his attorney if he retained one, and Ms. Styza. The purpose of this conference was to make a final attempt to resolve the matter, and, if settlement could not be reached, to

schedule a hearing. D.M. failed to attend the September 1, 2021 conference, without explanation.

6. The telephone status conference was rescheduled to September 29, 2021, but D.M. did not appear, and provided no explanation for his failure to appear.
7. The undersigned provided petitioner yet another opportunity to appear for the conference. It was scheduled for October 14, 2021, and the notice specifically informed petitioner that the matter would be dismissed if he failed to appear. Ms. Styza appeared for the call, however, petitioner did not, after waiting fifteen minutes for him to call in. Again, he provided no explanation for his failure to appear.
8. Notices for the aforementioned conferences were sent to petitioner using the email and address provided by petitioner.

CONCLUSIONS OF LAW

Based upon the foregoing facts and the applicable law, I **CONCLUDE** that, in light of petitioner's multiple failures to appear for scheduled conferences without any explanation, he has abandoned this matter, and that the matter should be returned to the transmitting agency.

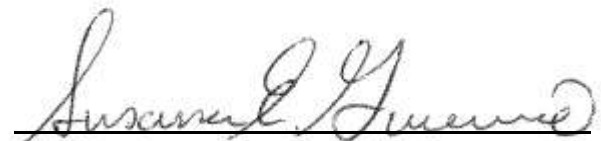
N.J.A.C. 1:1-14.4(a) provides that, if, after appropriate notice, a party does not appear in any proceeding scheduled by a judge, the judge shall hold the matter for one day before taking any action. If the judge does not receive an explanation for the nonappearance within one day, the judge may direct the Clerk to return the matter to the transmitting agency for appropriate disposition. D.M. failed to appear for multiple scheduled proceedings, most recently on October 14, 2021, and he failed to provide an explanation for any of the nonappearances. He also specifically failed to provide any explanation for his nonappearance one day following the October 14, 2021 nonappearance. Accordingly, the Clerk should return this matter to the Office of Special Education Policy and Dispute Resolution as a **DISMISSAL**.

ORDER

It is **ORDERED** that the Clerk return this file to the Office of Special Education Policy and Dispute Resolution 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 (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


SUSANA E. GUERRERO, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

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