



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**FINAL DECISION**

**FAILURE TO APPEAR**

OAL DKT. NO. EDS 05633-21

AGENCY DKT. NO. 2021-32923

**S.N. on behalf of J.B.,**

Petitioner,

v.

**PISCATAWAY TOWNSHIP**

**BOARD OF EDUCATION,**

Respondent.

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**S.N. on behalf of J.B.,** petitioner, pro se

**David Rubin, Esq.,** for respondent

Record Closed: November 12, 2021

Decided: November 15, 2021

BEFORE **JUDITH LIEBERMAN, ALJ:**

Petitioner, S.N. on behalf of student J.B., asserts that a suspension was racially motivated and seeks an appropriate program and placement for the 2021-2022 school year.

This matter was assigned to me on July 26, 2021, to schedule a telephone prehearing conference and to discuss hearing dates. Conferences were conducted on August 3, 2021, and August 23, 2021. During the latter conference, a hearing was

scheduled for November 29, 2021, and the parties were directed to deliver to me, no later than October 25, 2021, a list of their witnesses as well as all the exhibits they intended to use during the hearing. A telephone pre-hearing status conference was also scheduled to be conducted on October 29, 2021. The hearing, status conference, and exhibit submission deadline were confirmed in an August 24, 2021, Prehearing Order that was sent to the parties by way of email the same day.

Petitioner did not submit the required materials by October 25, 2021, and failed to appear for the October 29, 2021, prehearing status conference. On November 3, 2021, I sent a letter to petitioner in which I directed her to submit all information and documents required by the Prehearing Order no later than November 5, 2021. I advised petitioner that failure to comply with the Prehearing Order may result in the dismissal of her appeal pursuant to N.J.A.C. 1:1-14.14.

To date, petitioner has neither forwarded the required materials, communicated with the Office of Administrative Law concerning her failure to appear nor otherwise addressed her appeal and the pending hearing. Respondent has advised, by way of a November 11, 2021, letter, that is has not received petitioner's exhibits or witness list.

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 scheduled appearances; has failed to comply with the Prehearing Order; and has not contacted the OAL to address these failures, I **CONCLUDE** that petitioner has abandoned the appeal.

### **ORDER**

It is hereby **ORDERED** that this appeal be **DISMISSED**.

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.

November 15, 2021  
DATE

  
\_\_\_\_\_  
JUDITH LIEBERMAN, ALJ

Date Received at Agency \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_

/mph