



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

DISMISSAL - FAILURE TO APPEAR

OAL DKT. NO. EDS 09559-21

AGENCY DKT. NO. 2022-33513

S.M. ON BEHALF OF E.M.,

Petitioner,

v.

**VINELAND CITY BOARD OF
EDUCATION,**

Respondent.

S.M. on behalf of **E.M.**, petitioner, pro se

Robert A. Muccilli, Esq., for respondent (Capehart and Scatchard, P.A., attorneys)

Record Closed: January 31, 2022

Decided: February 2, 2022

BEFORE **JEFFREY R. WILSON**, ALJ:

This case which arises under the Individuals with Disabilities Education Act, 20 U.S.C. §1401 to 1484(a) and C.F.R. §300.500, was transmitted to the Office of Administrative Law (OAL) for hearing on November 22, 2021.

A dial-in, telephonic prehearing conference was scheduled for January 4, 2022, at 1:00 p.m., and a notice was sent to the petitioner on December 22, 2021, by email. That notice contained the following language:

If you do not participate in the prehearing conference, the file will be returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party.

Petitioner did not participate in the January 4, 2022, telephone conference and did not contact the Office of Administrative Law to explain why she was unable to do so. On January 5, 2022, notice was emailed to the parties advising them of another telephone prehearing conference, scheduled January 27, 2022, at 10:00 a.m. The notice included the following language:

If you do not participate in the prehearing conference, the file will be returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party.

Petitioner did not participate in the January 27, 2022, telephone conference and as of this date, she has not contacted the Office of Administrative Law explaining her failure to appear for the conference. Accordingly, I **CONCLUDE** that petitioner has abandoned her appeal, and that dismissal is therefore appropriate.

ORDER

I **ORDER** that the petition be **DISMISSED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2018) 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 (2018). 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.



February 2, 2022
DATE

JEFFREY R. WILSON, ALJ

Date Received at Agency:

Date emailed to Parties:

JRW/tat