



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION DISMISSING

EMERGENT RELIEF

OAL DKT. NO. EDS 00143-24

AGENCY DKT. NO. 2024-36890

A.P. AND C.P ON BEHALF OF S.P.,

Petitioners,

v.

POINT PLEASANT BEACH BORO

BOARD OF EDUCATION,

Respondent.

A.P and C.P., petitioners, pro se

Sanmathi Dev, Esq., for respondent (Capehart Scatchard, LLP, attorneys)

Record Closed: January 10, 2024

Decided: January 11, 2024

BEFORE **NICOLE T. MINUTOLI**, ALJ:

STATEMENT OF THE CASE

Petitioners A.P. and C.P. on behalf of S.P. filed a due process petition and a request for emergent relief pursuant to the Individuals with Disabilities Education Act, citation, but failed to appear for the emergent hearing. Should the request for emergent relief be dismissed? Yes. For the unreasonable failure to comply with any order of a

judge or with any requirement of the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, the judge of a case may take any appropriate case-related action, including dismissal. See N.J.A.C. 1:1-14.14.

PROCEDURAL HISTORY

On December 29, 2023, petitioners filed a petition for a due process hearing and a request for emergent relief with the New Jersey Department of Education, Office of Special Education (OSE).

On January 4, 2024, the OSE transmitted only the emergent request to the Office of Administrative Law (OAL) for hearing as an emergent, contested matter. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23.

On January 4, 2024, notice was emailed to the parties that the emergent hearing would be held at the OAL, 9 Quakerbridge Plaza, Mercerville, New Jersey, on January 10, 2024, at 10:00 a.m.

On January 5, 2024, notice was emailed to the parties of a pre-hearing telephone conference on January 8, 2024, at 2:00 p.m. A dial-in number was provided. Petitioners failed to appear for the January 8, 2024, telephone conference and did not request that it be adjourned. When petitioners failed to call in at the appointed time, my office attempted to reach them by telephone to remind them of the telephone conference but received no response. A voice message was left. Respondent did appear.

By email dated January 8, 2024, my office reminded the parties of the oral argument scheduled for January 10, 2024. My office did not receive an undeliverable email notification.

Petitioners failed to appear for the January 10, 2024, hearing on their emergent request and did not contact the OAL or my chambers to request an adjournment or to explain their failure to appear. Respondent, however, did appear.

CONCLUSIONS OF LAW

For the unreasonable failure to comply with any order of a judge or with any requirement of the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, the judge of a case may take any appropriate case-related action, including dismissal. See N.J.A.C. 1:1-14.14. In this case, petitioners failed to appear for the pre-hearing conference call and failed to appear for the hearing on their emergent request despite timely notice, and to date, have still not contacted the OAL or this tribunal to explain their failure to appear. Given this unreasonable failure to appear, I **CONCLUDE** that this emergency request should be dismissed under the authority granted to me by N.J.A.C. 1:1-14.14.

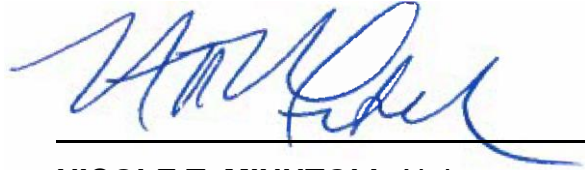
ORDER

Given the foregoing, I **ORDER** that the request of petitioners A.P. and C.P. on behalf of S.P. for emergent relief be **DISMISSED**.

This decision on application for emergency relief shall remain in effect until the issuance of the decision on the merits in this matter. The hearing having been requested by the parents, this matter is hereby returned to the Department of Education for a local resolution session, pursuant to 20 U.S.C. § 1415(f)(1)(B)(i). If the parents or adult student feel 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.

January 11, 2024 _____

DATE



NICOLE T. MINUTOLI, ALJ

Date Received at Agency:

Date Mailed to Parties:

NTM/cb