



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 16639-24

AGENCY DKT. NO. 2025-38270

M.D. ON BEHALF OF J.F.,

Petitioner,

v.

SOUTH ORANGE-MAPLEWOOD

BOARD OF EDUCATION,

Respondent.

No Appearance by M.D. o/b/o J.F. pro se petitioner

Marc G. Mucciolo, Esq., (The Busch Law Group, attorneys) for respondent

Record Closed: March 27, 2026

Decided: March 30, 2026

BEFORE **ERNEST M. BONGIOVANNI, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On November 22, 2024, the Office of Special Education Programs of the New Jersey Department of Education transmitted this matter to the Office of Administrative Law (OAL) for a hearing. M.D. on behalf of her son J.F. filed a petition for due process against the South Orange-Maplewood Board of Education seeking, among other relief, a functional Behavioral Assessment, a neurological evaluation, full implementation of

his IEP and 504 plans and a 1 to 1 aide. Respondent has filed a Motion to Dismiss this petition with prejudice. For reasons which follow I grant the motion.

FINDINGS OF FACT

I **FIND** the following uncontested facts:

1. M.D. has had numerous chances to file appearances at prehearing conferences and has without any response to the court whatsoever failed to appear for any proceeding or respond directly to any court notice. The last such prehearing required her personal appearance at the Offices of Administrative Law, 33 Washington Street, 7th Floor, Newark NJ 07102 on March 4th, 2026. She again failed to appear, and she has never appeared for any proceeding in this matter whatsoever.
2. Over a year earlier, on or about January 9, 2025, respondent filed a motion to dismiss, noting that without explanation, petitioner had failed to appear for conferences scheduled on December 13 and December 17, 2024.
3. Although M.D. failed to respond to the motion to dismiss. However, with an abundance of caution, of an abundance of caution I adjourned the motion date of June 27, 2025, and asked respondent's counsel to provide a certification from the district as to M.D.'s whereabouts. The Superintendent provided a certification, by the district's Superintendent supplementing the aforesaid motion, stating "J.F. was disenrolled" from the district's schools, upon information and belief that he and M.D. had relocated to Japan.
4. On or about September 9, 2025 M.D. sent an email to my office which "explained" that she "was out of the country from November 1, 2024, until September [2025]." She said she had resigned her job and moved to Japan to "get medication for her son." She did not provide verification of her current address nor where her son was attending school. Nor did she mention the pending motion to dismiss.

5. After that time, I gave M.D. two additional chances to appear in court to explain her position regarding the motion to dismiss, the last time being March 6, 2026. That notice for that hearing warned should she fail to appear the motion to dismiss would be granted and her case dismissed with prejudice. Again, there has been no response from M.D. whatsoever.

DISCUSSION AND CONCLUSIONS OF LAW

It is more than obvious that none of the requested actions of the respondent, such as implementing her son's IEP as stated in M.D.'s request for Due Process, nor a Fair Hearing could be accomplished with her disappearance from the county and even worse her nonresponses to the court after allegedly returning here. Based on the foregoing facts and the applicable law, I **CONCLUDE** that petitioner has abandoned this action and that it should be dismissed. Furthermore, the respondent is entitled to a dismissal for M.D.'s failure to respond to it.

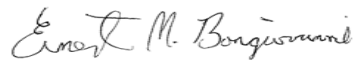
N.J.A.C. 1:1-14.4(a) provides that, if, after appropriate notice, a party does not appear in any proceeding scheduled by a judge, the judge shall hold the matter for one day before taking any action. If the judge does not receive an explanation for the nonappearance within one day, the judge may direct the Clerk to return the matter to the transmitting agency for appropriate disposition. M.. failed to appear at the scheduled proceeding, and she failed to provide an explanation for her nonappearance in not just one day following it, but for sixteen months since first failing to appear for a prehearing, which has been followed by many failures to attend or to justify several unexplained non-appearance and nonresponses.

ORDER

It is **ORDERED** that the request for a Fair Hearing and Due Process be **DISMISSED** with prejudice and the Clerk return this matter to the Office of Special Education Programs 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 (2026) 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 (2025). 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.

March 30, 2026



DATE

ERNEST M. BONGIOVANNI., ALJ

Date Received at Agency

3/30/2026

Date Mailed to Parties:

3/30/2026

id