

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 09397-14

AGENCY DKT. NO. 2014 21402

SOUTH PLAINFIELD BOARD OF EDUCATION,

Petitioner,

v.

D.D obo A.D.,

Respondent.

Robin Ballard, Esq., for petitioner (Schenck, Price, Smith & King, LLP, attorneys)

No appearance on behalf of respondent

Record Closed: August 12, 2014

Decided: September 3, 2014

BEFORE **ROBERT J. GIORDANO**, ALJ:

On July 25, 2014, this matter was transmitted to the Office of Administrative Law by way of Due Process Petition filed by the South Plainfield Board of Education to secure parental consent pursuant to N.J.A.C. 6A:14.3.3(e) to conduct initial evaluations of A.D. in accordance with N.J.A.C. 6A:14-2.7(b). A hearing was scheduled for August 12, 2014, at 9:00am at the Office of Administrative Law, 33 Washington Street, Newark, New Jersey.

On August 12, 2014, respondent D.D., mother of A.D. failed to appear at the hearing, despite notice of said hearing. Robin Ballard, Esq., appeared on behalf of petitioner. At the request of petitioner, testimony was taken and evidence introduced on an *ex parte* basis, pursuant to N.J.A.C. 1:1-14.4(d).

Having considered the testimonial and documentary evidence produced and in the absence of any evidence to the contrary, I **FIND**:

1. A.D., fourteen years of age, and enrolled in the South Plainfield School District, has exhibited continual educationally-related problems over the past several years.
2. The District has provided general education interventions for A.D. since in or about 2012. Despite the attempts at interventions through supports offered, A.D. continued to present with difficulties in academic achievement, including poor grades and poor homework.
3. While in the eighth grade at the South Plainfield Middle School during the 2013-2014 school year, A.D. had continued difficulties in class.
4. In light of the continued difficulties exhibited by A.D., the IRS committee referred A.D. to the Child Study Team during the 2013-2014 school year. As a result of that referral, the District determined that A.D. may have an educationally disabling condition requiring special education programming.
5. On or about June 18, 2014¹, an Identification/Evaluation Planning Meeting was held with the petitioner D.D., at which time the District proposed to evaluate A.D. for special education and related services.
6. The District therefore requested parental consent to conduct educational, psychological, and functional assessments.
7. To date, the respondent D.D. has refused to consent to the proposed evaluations of her son, A.D.
8. Petitioner has demonstrated with sufficiency, the need for initial evaluations for the purpose of determining whether special education and related services are appropriate for A.D.

¹ Exhibit 1 to the Due Process Petition of petitioner South Plainfield Board of Education reflects a date of the parental notice as June 16, 2014, while the references therein to the date of that meeting is June 18, 2014. For purposes of the within due process application, the exact date of that meeting and notice are not material.

9. Petitioner has met the procedural requirements, including notice, for obtaining the relief sought by way of the Due Process Petition pursuant to N.J.A.C. 6A:14-2.7 et seq.

I **CONCLUDE** that petitioner has shown sufficient cause to conduct initial educational, psychological, and functional evaluations as part of the proper determination of whether an appropriate program of special education and related services for the child, A.D. is warranted. Accordingly, I **ORDER** that respondent D.D. provide the necessary consent and cooperation with the District in conducting the requested evaluations of A.D. Issues of classification and/or placement will be addressed, as necessary, subsequent to the implementation of this **ORDER**.

This decision is final pursuant to 20 U.S.C.A. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2012) 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.A. § 1415(i)(2); 34 C.F.R. § 300.516 (2012). 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.

Sept. 3, 2014
DATE

ROBERT J. GIORDANO, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

kep