

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

**FINAL DECISION**

**FAILURE TO APPEAR**

OAL DKT. NO. EDS 7380-14

AGENCY DKT. NO. 2014 20909

**V.M. ON BEHALF OF M.T.,**

Petitioner,

v.

**MIDDLETOWN TOWNSHIP**

**BOARD OF EDUCATION,**

Respondent.

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No appearance by or on behalf of the petitioner

**Joanne Butler**, Esq., for respondent (Schenck, Price, Smith & King, LLP,  
attorneys)

Record Closed: July 28, 2014

Decided: July 28, 2014

BEFORE **JOHN SCHUSTER III**, ALJ:

The Office of Special Education Programs (OSEP) transmitted this matter to the Office of Administrative Law (OAL), where it was filed on June 12, 2014. The matter was scheduled for hearing at the Trenton office of the OAL on June 24, 2014. At the request of petitioner the matter was rescheduled for July 10, 2014 and a notice to that effect was sent to the parties by the OAL. On July 10, 2014, at the designated hearing commencement time the attorney for the respondent, Board of Education was present but petitioner did not appear claiming a transportation problem as a result of a

mechanical failure to her automobile. As an accommodation to the petitioner the matter was rescheduled for July 28, 2014 on a peremptory basis and a notice to that effect was sent to the petitioner on July 15, 2014. On that same date a letter was sent to the petitioner explaining to her the consequences of not appearing on July 28, those consequences being the dismissal of her action. Petitioner did not appear at the hearing on July 28, 2014, however the attorney for the respondent, Board of Education did appear and as a result of no appearance by petitioner no hearing was conducted.

As a result of petitioner's failure to appear for the hearing, I **FIND** and **CONCLUDE** that the petition should be dismissed without prejudice.

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.

July 28, 2014

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DATE

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**JOHN SCHUSTER III, ALJ**

Date Received at Agency

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Date Mailed to Parties:

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