



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 03639-22

AGENCY DKT. NO. 2022-34120

L.M. ON BEHALF OF J.M.,

Petitioner,

v.

MONROE TOWNSHIP

BOARD OF EDUCATION,

Respondent.

L.M., petitioner, pro se

Shifra Tarica, Esq., for respondent (Florio, Perrucci, Steinhardt, Cappelli, Tipton
& Taylor, LLC, attorneys)

Record Closed: January 5, 2023

Decided: January 5, 2023

BEFORE, **BARRY E. MOSCOWITZ**, Acting Director and Chief ALJ:

STATEMENT OF THE CASE

Petitioner failed to appear for the hearing of this case despite having received notice. Should this case 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 April 7, 2022, petitioner filed a petition for due process with the Department of Education, Office of Special Education (OSE). On May 9, 2022, OSE transmitted the case to the Office of Administrative Law (OAL) under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, and the Special Education Program, N.J.A.C. 1:6A-1.1 to -18.5. On that date, OSE scheduled a settlement conference hearing at the OAL for May 17, 2022.

FINDINGS OF FACT

On May 17, 2022, a settlement conference was held before the Honorable David M. Fritch, ALJ, during which time petitioner agreed to withdraw her petition. When petitioner did not withdraw her petition, a telephone conference was scheduled before me on December 7, 2022, during which time petitioner again agreed to withdraw her petition, and a follow-up telephone conference was scheduled for December 20, 2022, in case petitioner did not do so. Between December 7, 2022, and December 2022, petitioner did not withdraw her petition. On December 20, 2022, petitioner failed to appear for the telephone conference.

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. From May 17, 2022, through the date of this decision, petitioner has demonstrated an unwillingness to participate in this case, culminating in her failure to appear for a telephone conference scheduled for December 20, 2022. Given this

unreasonable failure to appear, I **CONCLUDE** that this case should be dismissed under the authority granted to me by N.J.A.C. 1:1-14.14.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that this case be **DISMISSED**.

This decision is final under 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2022) 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 (2022). 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.

January 5, 2023
Date


BARRY E. MOSCOWITZ
Acting Director and Chief ALJ:

Date Received at Agency January 5, 2023

Date Mailed to Parties:
dr January 5, 2023