

217-23

OAL Dkt. No. EDU 02247-23

Agency Dkt. No. 50-3/23

New Jersey Commissioner of Education

Final Decision

R.J., on behalf of minor child, J.C.,

Petitioner,

v.

Board of Education of the Township of
Union, Union County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed and considered.

Petitioner challenges a residency determination made by the Township of Union Board of Education (Board). The Administrative Law Judge (ALJ) scheduled a telephone conference regarding petitioner's appeal for June 21, 2023. Petitioner failed to appear, and the ALJ returned the file to the agency.

Upon review, the Commissioner disagrees with the ALJ that the matter should be dismissed based on petitioner's failure to appear. The record indicates that the scheduling notices were sent to the parties via email. Pursuant to *N.J.A.C. 1:1-9.5(c)*, scheduling notices must be sent by regular mail unless emergent needs require otherwise. There is no indication in the record that the telephone conferences were emergent. Moreover, while sending scheduling notices via email may be acceptable in many circumstances – such as in cases where

all parties or attorneys routinely communicate with the OAL via email – the record here demonstrates that the incorrect email address was used to send notices to petitioner.¹ The record further demonstrates that the petitioner advised the OAL that the incorrect email address had been used on June 23, 2023, and requested that the telephone conference be rescheduled, but the ALJ nonetheless decided to mark the case as a failure to appear.

Because the record demonstrates that petitioner did not receive the scheduling notices, the Commissioner finds that dismissal at this juncture is not appropriate.

Accordingly, this matter is remanded to the OAL for further proceedings consistent with this opinion.



ASSISTANT COMMISSIONER²

Date of Decision: July 17, 2023
Date of Mailing: July 19, 2023

¹ The Commissioner acknowledges that the ALJ used the email address listed for petitioner on the transmittal form and apologizes for the inconvenience caused by the typographical error on that form. Petitioner's correct email address is reflected elsewhere in the file.

² Pursuant to N.J.S.A. 18A:4-34, this matter has been delegated to Assistant Commissioner Kathleen Ehling.