

**New Jersey Commissioner of Education**

**Final Decision**

C.D.S. on behalf of minor child, N.S.,

Petitioner,

v.

Board of Education of the City of Elizabeth, Union  
County,

Respondent.

The record of this matter, which was transmitted to the Commissioner by the Office of Administrative Law (OAL) pursuant to *N.J.A.C. 1:1-14.4* and includes an advisement of the petitioner's failure to appear at a scheduled hearing on December 18, 2025, has been reviewed.

The OAL's Notice of Return was dated December 20, 2025, and it indicates to petitioner, "If you failed to appear and still want to have a hearing, you must explain IN WRITING, why you did not appear. . . . The agency must receive the explanation WITHIN 13 days of this notice. Copies of the explanation must be sent to all other parties." These instructions are consistent with the requirements of *N.J.A.C. 1:1-3.3*.

On January 15, 2026, petitioner emailed the Office of Controversies and Disputes to request that the hearing be rescheduled. Petitioner indicated that she did not receive a letter with the court date; she suggested that recent certified letter addressed to her daughter may have contained the hearing notice, but she did not sign for that letter because it was not addressed to her. Petitioner further indicates that she did not receive the OAL's Notice of Return in a timely manner due to "medical conditions" and "being away for the holidays."

Upon review, the Commissioner concludes that it is appropriate to dismiss this matter based on petitioner's failure to appear. Initially, the OAL's Notice of Return is clear that the agency must receive any explanation for the failure to appear within 13 days of the notice, which made the deadline January 2, 2026. Petitioner did not submit her explanation until January 15, 2026, nearly two weeks after the deadline. The Commissioner does not find the petitioner's explanation for her late response to be persuasive. Petitioner provides no specifics regarding the nature of her "medical conditions" or why they would prevent her from responding to the Notice of Return. Furthermore, even if petitioner had been traveling and did not receive Notice of Return between December 2, 2025 and January 2, 2026, she did not provide any reason for her additional delay until January 15, 2026 before responding. Moreover, petitioner failed to copy counsel for the Elizabeth Board of Education on her response, as required. These defects alone warrant dismissal of this matter.

Additionally, even if the Commissioner were to consider petitioner's explanation for failing to appear at the hearing, the Commissioner also finds that explanation unpersuasive. All of the OAL's correspondence and notices indicate that they were sent to petitioner, not to her daughter, and the address listed is the same address petitioner listed on her petition of appeal; it is also the address to which the Notice of Return – which petitioner clearly received – was sent successfully, and it is the same address that petitioner again lists in her explanation email as being her correct address.

Accordingly, this matter is no longer deemed to be a contested case before the Commissioner and is hereby dismissed with prejudice.

IT IS SO ORDERED.<sup>1</sup>



COMMISSIONER OF EDUCATION

Date of Decision: January 29, 2026  
Date of Mailing: January 30, 2026

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<sup>1</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to N.J.S.A. 18A:6-9.1. Under N.J.Ct.R. 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.