



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

M.G. ON BEHALF OF B.G.,

Petitioners,

v.

**LAKEWOOD TOWNSHIP BOARD OF
EDUCATION,**

Respondent.

OAL DKT. NO. EDS 15440-17

AGENCY DKT. NO. 2018-27028

AND

**LAKEWOOD TOWNSHIP BOARD OF
EDUCATION,**

Petitioners,

v.

M.G. ON BEHALF OF B.G.,

Respondent.

OAL DKT. NO. EDS 15442-17

AGENCY DKT. NO. 2018-27032

No appearance by or on behalf of **M.G.** or **B.G.**

Michael Inzelbuch, Esq. for Lakewood Township Board of Education

Record Closed: June 28, 2018

Decided: June 29, 2018

BEFORE **LISA JAMES-BEAVERS**, Acting Director and Chief ALJ:

STATEMENT OF THE CASES AND PROCEDURAL HISTORY

Petitioner M.G. on behalf of his adult child, B.G. filed a petition for due process with the Office of Special Education Programs on October 12, 2017. The petition sought an order for home instruction pending completion of independent evaluations that it asked the respondent Lakewood Township Board of Education to fund. The petition set forth a demand for compensatory education for the time from December 21, 2016 through October 9, 2017, when petitioner alleges that B.G. was not being educated and was denied a free and appropriate public education (FAPE).

Respondent Lakewood Township Board of Education filed a cross-petition on October 18, 2017 seeking an Order to deny the request for independent evaluations, consent to complete a functional behavior assessment (FBA) and consent to seek an out of district placement.

A hearing date on both cases was scheduled for October 26, 2017. At that hearing, the parties appeared before Administrative Law Judge Joseph Martone who attempted without success to settle the case. B.G. was represented by a parent advocate at the time, but she subsequently advised that she was no longer representing B.G. B.G. signed an authorization for her father M.G. to represent her in the case.

A hearing was scheduled for June 27, 2018 before the undersigned. Notices were sent initially scheduling the cases to be heard at 9:30 a.m. Mr. Inzelbuch wrote to the court asking for a later start time of 10:30 as he was going to be before another judge at 9:30. He and my assistant attempted to reach M.G. and B.G. to advise of the new time, but neither returned phone calls or email. At 10:30 a.m., Mr. Inzelbuch appeared at the hearing with Case Manager Charisse Anderson and Home Instructor Barry Hoberman. As of 11:26, there was no appearance by M.G. or B.G.

On the record, Mr. Inzelbuch stated that he delivered exhibits to the last known address for B.G. On June 25, 2018, the District held a Child Study Team meeting for

which B.G. was noticed. Present at that meeting were the principal and vice-principal of the Lakewood High School and B.G.'s home instructors. They called seven numbers to contact B.G., but none worked except the last one. At the last number they were able to reach her father, M.G. He said that B.G. was aware of the meeting but was unable to attend. He said that he would reschedule, but he never did.

Ms. Anderson testified under oath that she had the notice for the IEP meeting and hearing delivered to three last known addresses and it was signed for on June 14, 2018 by M.G. M.G. has expressed that he does not have control over B.G. who is now twenty years old. Prior to the filing of the petition the District set up intakes at out of district placements, but B.G. failed to show up even though she set the date.

The District represents that it stands willing to provide B.G. with a FAPE, but its efforts at home instruction and placement out of district have failed.

FINDINGS OF FACT

I **FIND** that M.G. and B.G. were properly notified of the scheduled hearing date at the Office of Administrative Law on June 27, 2018. I further **FIND** that neither M.G. nor B.G. appeared for the scheduled hearing. I further **FIND** that after twenty-four hours, neither M.G. nor B.G. have contacted this tribunal to explain their failure to appear for their hearing. I further **FIND** that prior to the hearing, Ms. Anderson attempted many different ways to reach M.G. and B.G. to resolve these matters, but was unsuccessful.

CONCLUSION

Based on the failure of M.G. and/or B.G. to appear at the scheduled hearing, I **CONCLUDE** that M.G. and B.G. no longer wish to pursue the petition that they filed and no longer wish to defend against the petition of the Board.

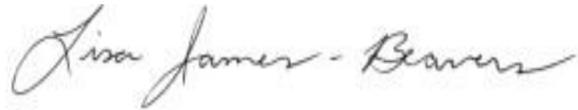
ORDER

I hereby **DISMISS** M.G. and B.G.'s petition for due process without prejudice and similarly **DISMISS** the Board's cross petition without prejudice. It can be refiled in the event that petitioner refiles.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2017) 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 (2017). 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 Programs.

June 29, 2018 _____

DATE



LISA JAMES-BEAVERS
Acting Director and Chief
Administrative Law Judge

Date Received at Agency _____

Date Mailed to Parties: _____

caa