



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

FAILURE TO APPEAR

OAL DKT. NO. EDS 5031-18

AGENCY DKT. NO. 2018 27636

R.W. on behalf of L.W.,

Petitioner,

v.

ATLANTIC CITY BOARD

OF EDUCATION,

Respondent.

No appearance by R.W., petitioner, pro se

Tracey Riley, Esq., for respondent (Law Offices of Riley & Riley, attorneys)

Record Closed: April 27, 2018

Decided: May 2, 2018

BEFORE **DEAN J. BUONO**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

The petitioner, R.W., seeks appropriate program and placement for L.W. to address behavioral concerns. The Office of Special Education Policy and Procedure, of the New Jersey Department of Education, transmitted this matter to the Office of Administrative Law (“OAL”), where it was filed on April 9, 2018.

Hearing was scheduled for April 26, 2018, at 9:00 a.m. at the OAL, 9 Quakerbridge Plaza, Mercerville, NJ 08619. The petitioner, R.W., was notified of the hearing date by the Office of Special Education Policy and Procedure on April 9, 2018. R.W. did not contact any representative of the OAL on April 26, 2018, or prior to that date, to advise that he was unable to appear. R.W. did not contact any representative of the OAL on April 27, 2018, to explain why he did not appear at the scheduled hearing of April 26, 2018.

LEGAL ANALYSIS AND CONCLUSION

New Jersey Administrative Code 1:1-14.4(a) provides that, if, after appropriate notice, a party does not appear in any proceeding scheduled by a judge, the judge shall hold the matter for one day before taking any action. If the judge does not receive an explanation for the nonappearance within one day, the judge may direct the Clerk to return the matter to the transmitting agency for appropriate disposition.

R.W. failed to appear at the scheduled proceeding and failed to provide a documented explanation for his nonappearance one day following his nonappearance.

Based upon the facts and the applicable law, I **CONCLUDE** that petitioner has failed to appear, has abandoned this matter, and that it should be returned to the transmitting agency.

ORDER

It is **ORDERED** that the Clerk return this matter to the Office of Special Education Policy and Procedure of the New Jersey Department of Education.

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.

May 2, 2018

DATE



DEAN J. BUONO, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

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