



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 08345-19

AGENCY DKT. NO. 2019-29957

K.M. ON BEHALF OF N.M.,

Petitioner,

v.

EDISON TOWNSHIP

BOARD OF EDUCATION,

Respondent.

K.M., petitioner, pro se

Rita F. Barone, Esq., for respondent (Purcell, Mulcahy & Flanagan, LLC,
attorneys)

Record Closed: July 25, 2019

Decided: July 26, 2019

BEFORE **BARRY E. MOSCOWITZ**, ALJ:

STATEMENT OF THE CASE

Petitioner failed to appear for the hearing of this case and failed to contact this tribunal to explain why. 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 May 21, 2019, petitioner filed a petition for due process hearing with the Department of Education, Office of Special Education Policy and Dispute Resolution (OSEPDR).

On June 20, 2019, OSEPDR 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 May 21, 2019, OSEPDR had scheduled the hearing for July 2, 2019, at the OAL in Mercerville. On July 1, 2019, respondent requested an adjournment of the hearing, which was granted, and the hearing was scheduled for July 18, 2019. K.M. then requested a venue change from Mercerville to Newark, which was also granted, and the hearing was rescheduled for July 25, 2019. On July 25, 2019, petitioner did not appear for the hearing.

FINDINGS OF FACT

On July 25, 2019, petitioner did not appear for the hearing in this case. Respondent, however, did appear. To date, petitioner has not contacted this tribunal to explain why.

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. In this case, petitioner failed to appear for the hearing of this case and failed to contact this tribunal to explain why. To date, petitioner has still not contacted this tribunal to explain why. 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 (2018) 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 (2018). If the parent or adult student believes that this decision is not being fully implemented with respect to a program or service, then this concern should be communicated in writing to the Director of OSEPDR.

July 26, 2019

DATE



BARRY E. MOSCOWITZ, ALJ

Date Received at Agency July 26, 2019

Date Mailed to Parties:

dr