



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

FAILURE TO APPEAR

OAL DKT. NO. EDS 13855-19

AGENCY DKT.NO. 2020-30719

**LAWRENCE TOWNSHIP BOARD
OF EDUCATION,**

Petitioner,

v.

D.H. ON BEHALF OF D.H.,

Respondent.

Michael A. Pattanite, Jr., Esq., for petitioner (Leneck, Socey, Formidoni, Giordano,
Colley, Lang & Casey, attorneys)

D.H. on behalf of **D.H.**, respondent, pro se

Record Closed: October 15, 2019

Decided: October 15, 2019

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

Petitioner, Lawrence Township Board of Education seeks an order that its proposed program and placement provides a Free and Appropriate Public Education (FAPE) of minor student, D.H.

This matter was transmitted to the Office of Administrative Law (OAL) for a due process hearing. The OAL received the matter on October 2, 2019 and an initial hearing was scheduled for October 10, 2019. Respondent failed to appear on the scheduled date and has not called or written to the undersigned to explain the failure to appear.

N.J.A.C. 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 non-appearance within one day, the judge may direct the Clerk to return the matter to the transmitting agency for appropriate disposition. Respondent failed to appear at the scheduled proceeding and failed to provide a documented explanation for the non-appearance one day following the non-appearance. Accordingly, the Clerk should return this matter to the Office of Special Education pursuant to the above-cited rule.

Michael Pattanite, Esq., attorney for Board, represented that D.H., the minor student, had severe attendance issues. The District proposed a number of out of district placements and respondent, D.H., signed consent to send records. However, respondent and minor student failed to attend intake meetings required for the placement. The District's attempts to place student, D.H., including home instruction were thwarted by respondent.

Accordingly, it is **ORDERED** that the Lawrence Township Board of Education's petition seeking an order that its proposed program and placement provides a FAPE to respondent, D.H., be and hereby is **GRANTED**.

CONCLUSION

Based on the foregoing facts and the applicable law, I **CONCLUDE** that respondent has failed to appear and that the matter should be returned to the transmitting agency.

ORDER

It is **ORDERED** that the Clerk return this matter to the Office of Special Education 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.

October 15, 2019

DATE



LISA JAMES-BEAVERS
Acting Director and Chief
Administrative Law Judge

Date Received at Agency _____

Date Mailed to Parties: _____

caa