



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**FINAL DECISION**

**DISMISSAL**

OAL DKT. NO. EDS 13135-23

AGENCY DKT. NO. 2024-36752

**PINE HILL BOROUGH BOARD OF EDUCATION**

Petitioner,

v.

**M.H. AND M.W. ON BEHALF OF S.W.,**

Respondents.

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**William C. Morlock**, Esq. for petitioner (Parker McCay, P.A., attorneys)

**M.H. and M.W.**, on behalf of petitioner S.W., pro se

Record Closed: January 2, 2024

Decided: January 9, 2024

BEFORE **CARL V. BUCK, III.**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

On or about November 22, 2023, the Office of Special Education Policy and Procedure (OSEPP) of the New Jersey Department of Education (DOE) transmitted this matter to the Office of Administrative Law (OAL) for a hearing. Pine Hill filed a petition for due process against S.W. through their parents M.H. and M.W. seeking to compel S.W. to complete a psychiatric evaluation.

In the original pleading, a February 28, 2018, script issued by S.W.'s physician, Eric A. Dorn, MD, FAAP, was provided. The script contained, among other notation, that "A complete Child Study Team eval is necessary and he may need and IEP for both his advanced educational needs as well as his delayed behavioral needs." (Petition, Exhibit C.)

A telephone conference was scheduled for December 4, 2023, at which time respondents, M.H. and M.W. did not appear. A second telephone conference was scheduled for December 20, 2023, at which time respondents, M.H. and M.W. did not appear. No explanation for not appearing at either conference by either respondent was received.

On December 21, 2023, the petitioner made a request to the Court that an Order be issued on its behalf based upon respondent's failure to appear on two occasions. I note that in the present case, S.W.'s physician, Dr. Dorn wrote a prescription on October 2, 2023, that "A complete Child Study Team eval is necessary..." (Petition Exhibit C.) Petitioners respectfully request that an Order and Opinion is entered based on the Petition due to Respondents' case.

### **ANALYSIS**

North Bergen Board of Education v. N.M. & M.M., OAL Docket No. EDS 2613-91 (Decided April 8, 1991) dealt with a similar issue and Judge Perselay issued a decision granting a request for evaluations when parents did not move forward with their defense of their case. This case is persuasive and applicable to the matter here.

### **CONCLUSION**

Based on the foregoing facts and the applicable law, I **CONCLUDE** that respondent has failed to appear, has not pursued their challenge of this matter and, as such, the request of petitioner must be granted.

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. In this case I did not receive any notice of why respondent did not appear for the conference of December 4, 2023, or the conference of December 20, 2023. The matter was held for ten (10) business days for receipt of correspondence from the respondent and none was received. Accordingly, the record was closed on the eleventh day after the scheduled telephone conference.

**ORDER**

It is **ORDERED** that the petitioner's request for evaluations of S.W. is **GRANTED**. It is further **ORDERED** that M.H. and M.W. make S.W. available for such evaluations at a time or times agreeable to all parties which time will not be unreasonably burdened.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2022) 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 (2022). 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.



January 9, 2024  
\_\_\_\_\_  
DATE

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**CARL V. BUCK, III, ALJ**

Date Received at Agency \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_

CVB/tat