



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

DISMISSAL

OAL DKT. NO. EDS 17152-24

AGENCY DKT. NO. 2025-38269

C.W. ON BEHALF OF M.W.,

Petitioner,

v.

**SCHOOL DISTRICT OF THE
CHATHAMS BOARD OF EDUCATION,**

Respondent.

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

Frances L. Febres, Esq. for respondent (Cleary Giacobbe Alfieri Jacobs, LLC,
attorneys)

Record Closed: March 10, 2025

Decided: March 14, 2025

BEFORE **KELLY J. KIRK,** ALJ:

STATEMENT OF THE CASE

Petitioner, C.W., on behalf of M.W., filed a Request for Due Process Hearing against respondent, School District of the Chathams Board of Education, seeking bus transportation for M.W.

PROCEDURAL HISTORY

On October 18, 2024, C.W., on behalf of M.W., filed a Request for Due Process Hearing (Petition) against the School District of the Chathams Board of Education (Board), seeking bus transportation for M.W. Specifically, the Petition alleges “Chatham High School is refusing to provide bus transportation,” which problem could be resolved “if the school provide [sic] bus transportation.” The matter was transmitted by the New Jersey Department of Education (Department), Office of Special Education, to the Office of Administrative Law (OAL), where it was filed on December 6, 2024.

By email dated December 10, 2024, a telephone prehearing conference was scheduled for December 11, 2024. Petitioner failed to appear for the conference, and by email dated December 12, 2024, the conference was rescheduled for December 16, 2024. Petitioner appeared for the conference and Ms. Febres advised that bus transportation was not a related service in the IEP, but M.W. was receiving bus transportation. A telephone conference was scheduled for December 19, 2024, to allow time for Ms. Febres to provide additional information to petitioner related to busing, and for petitioner to determine whether he wished to withdraw the Petition or proceed with a hearing (and/or the Board’s intended motion for summary decision). Said conference was confirmed by email dated December 16, 2024.

By email dated December 17, 2024, Ms. Febres advised petitioner as follows:

I contacted my client about subscription bussing, as we discussed with Judge Kirk during the status conference call. Subscription bussing has been a service offered by the District for approximately the last 20 years and there is no known intention by the district or Board to terminate the service in the near future. In fact, the district is already in the process of contracting for next year’s service. As far as the service for this school year, it will continue for the remainder of the school year. Therefore, transportation will continue to be available for M.W. for this school year. With the District already in the process of setting up next year’s service, you

will have the ability to sign her up for next year, should you choose to do so.

Please let me know if there anything additional you would like me to ask my client about the bussing service.

Petitioner did not appear for the December 19, 2024, conference, and could not be reached by telephone. By email dated December 19, 2024, the conference was rescheduled for December 30, 2024, to establish a motion scheduled and/or obtain hearing dates, and petitioner was also advised that if he wished to withdraw his petition based upon the information contained in Ms. Febres's email, to so advise via email and the conference would be canceled.

Petitioner did not withdraw the Petition, and he failed to appear for the December 30, 2024, conference. By email dated December 30, 2024, petitioner was advised that if he wished to withdraw the Petition based upon the information contained in Ms. Febres's email, to kindly so advise and the matter would be processed as withdrawn, or alternatively, if he wished to proceed with a hearing (and, as indicated by the Board, a motion), to kindly so advise and the conference would be rescheduled to obtain a motion schedule and hearing dates.

Petitioner did not contact the Office of Administrative Law (OAL). By letter dated January 17, 2025, sent via email and regular mail, the parties were advised, inter alia, that the prehearing conference was rescheduled for January 29, 2025, and unless the OAL received an email from petitioner indicating that he wished to withdraw the Petition in advance, the telephone prehearing conference was mandatory and if petitioner failed to appear for the conference, it would be presumed that he does not wish to pursue this matter and it would be dismissed. Petitioner did not contact the OAL and he did not appear for the mandatory January 29, 2025, conference.

Despite no contact with the OAL since the December 16, 2024, prehearing conference, petitioner was afforded one final opportunity to appear before his Petition was dismissed. Specifically, by way of letter dated February 7, 2025, sent via email and regular mail, the parties were advised that a Zoom hearing had been scheduled for March

3, 2025, and that unless the OAL received an email from petitioner indicating that he wished to withdraw the Petition in advance, the hearing was mandatory and if petitioner failed to appear for the hearing, it would be presumed that he does not wish to pursue this matter and it would be dismissed. The February 7, 2025, letter further advised that if petitioner was unavailable for the Zoom hearing, to please immediately notify the OAL in order that it could be promptly rescheduled.

Due to a scheduling conflict, Ms. Febres requested adjournment of the March 3, 2025, hearing date. By email dated February 19, 2025, the parties were advised as follows:

This will confirm that the mandatory Zoom hearing has been rescheduled for **March 10, 2025 at 9:30 a.m.** A notice of Zoom hearing will be separately mailed to the parties.

Additionally, by letter dated February 19, 2025, sent via email and regular mail, and attaching the notice of mandatory hearing, the parties were notified as follows:

Kindly be advised that this matter has been scheduled for a **mandatory hearing on March 10, 2025 at 9:30 a.m.**, via Zoom. A notice of mandatory hearing is attached.

Unless I am in receipt of an email or letter indicating that petitioner wishes to withdraw his petition in advance, **participation in the hearing is mandatory**. If petitioner fails to participate in this hearing at the scheduled time, it will be presumed that he does not wish to pursue this matter, and his **petition of appeal will be dismissed** and the file will be returned to the Department of Education. Therefore, if petitioner is unavailable for the Zoom hearing, please immediately notify my assistant, Anne, at (973) 648-6063 or anne.mcnutt@oal.nj.gov, in order that it may be promptly rescheduled.

Thank you for your attention to this matter.

Petitioner did not withdraw the Petition and he did not contact the OAL to advise that he was unavailable for the hearing. On March 10, 2025, Ms. Febres appeared with

two witnesses for the Board, ready to proceed with the hearing. However, petitioner failed to appear, and to date, petitioner has not contacted the OAL.

LEGAL ANALYSIS AND CONCLUSIONS

Pursuant to N.J.A.C. 1:1-14.14(a), for unreasonable failure to comply with any order of a judge or with any requirements of Uniform Administrative Procedure Rules, the judge may dismiss the application and/or take other appropriate case-related action. Additionally, pursuant to N.J.A.C. 1:1-14.4 if, after appropriate notice, neither a party nor a representative appears at any proceeding scheduled by the Clerk or judge, and if the judge does not receive an explanation for the nonappearance within one day, the judge shall, unless proceeding ex parte, direct the Clerk to return the matter to the transmitting agency for appropriate disposition.

Respondent confirmed after the initial prehearing that M.W. had been receiving and would continue to receive bus transportation, and petitioner was given numerous opportunities to either withdraw the Petition or to proceed with the hearing. Petitioner did not withdraw the Petition, but he also did not respond to any emails or letters, and subsequent to December 16, 2025, he failed to appear for every scheduled prehearing conference—include the conference specifically deemed mandatory. As such, this matter was scheduled—via email and regular mail—for a mandatory hearing and despite notice that failure to appear for the hearing would result in the dismissal of the Petition, petitioner nevertheless failed to appear for the March 10, 2025, hearing. Further, petitioner failed to submit an explanation in writing for the failure to appear, and to date has failed to contact the OAL relative to the failure to appear. Accordingly, I **CONCLUDE** that the Petition should be **DISMISSED**.

ORDER

It is hereby **ORDERED** that the Petition is **DISMISSED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2025) 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 (2024). 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.

March 14, 2025



DATE

KELLY J. KIRK, ALJ

Date Received at Agency

Date Mailed to Parties:

am