



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

**FINAL DECISION**

**FAILURE TO APPEAR**

OAL DKT. NO. EDS 01958-25

AGENCY DKT. NO. 2025-38588

**D.F. ON BEHALF OF N.F.,**

Petitioner,

v.

**EAST BRUNSWICK TOWNSHIP**

**BOARD OF EDUCATION,**

Respondent.

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**No appearance by or on behalf of petitioner**

**Mark Wenczel, Esq.** for respondent (Clearly, Giacobbe, Alfieri, Jacobs, LLC,  
attorneys)

Record Closed: March 19, 2025

Decided: March 20, 2025

**BEFORE JUDITH LIEBERMAN, ALJ**

This case arises under the Individuals with Disabilities Education Act, 20 U.S.C. §§1401 to 1484(a) and C.F.R. §§300.500. Petitioner filed his request for a due process hearing on January 27, 2025. The Department of Education, Office of Special Education transmitted the matter to the Office of Administrative Law, (OAL) where on March 6, 2025,

it was filed as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. The matter was assigned to me on March 10, 2025.

On March 11, 2025, petitioner and respondent were advised of an initial proceeding to be held on March 13, 2025, at 4:30 p.m., by way of a notice that provided the date and time of the call and the dial-in information. The notice was sent to the parties by email and regular mail. A return receipt confirms that the email was delivered to petitioner. Petitioner did not appear. Counsel for respondent appeared for the proceeding. Petitioner did not contact the OAL to explain his failure to appear or request a new proceeding.

On March 13, 2025, petitioner and respondent were advised of a rescheduled proceeding to be held on March 14, 2025, at 3:30 p.m. by way of a notice that provided the date and time of the call and the dial-in information. The notice was sent to the parties by email. My legal assistant also telephoned petitioner the morning of March 14, 2025, to advise him of the proceeding at 3:30 p.m. that day. She left a voicemail message about the proceeding. Petitioner did not appear. Counsel for respondent appeared for the proceeding. Petitioner did not contact the OAL to explain his failure to appear or request a new proceeding.

On March 14, 2025, at 4:47 p.m., my legal assistant sent an email to the parties offering three dates for a rescheduled proceeding: March 18, 2025, March 19, 2025, or March 21, 2025, each to be held at 4:30 p.m. The parties were asked to advise which day(s) they could appear. Petitioner did not respond. Counsel for respondent advised that he could appear on March 19, 2025, or March 21, 2025. On March 18, 2025, petitioner and respondent were advised that the rescheduled proceeding would be held on March 19, 2025, by way of a notice that provided the date and time of the call and the dial-in information. The notice was sent to the parties by email. Petitioner did not appear. Counsel for respondent appeared for the proceeding. Petitioner did not contact the OAL to explain his failure to appear or request a new proceeding.

Receipts for each of the emails that was sent to petitioner confirm that they were delivered to him. As of the date of this decision, none of the above notices has been

returned to this office as undeliverable and petitioner has not contacted the OAL to explain his failure to appear or to otherwise communicate about this matter.

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 may take any appropriate case-related action, including dismissal. See N.J.A.C. 1:1-14.14. The petitioner demonstrated an unwillingness to participate in this case when he failed to appear for the three scheduled proceedings for which he received proper notice and did not communicate with the OAL about his failures to appear. Given this unreasonable failure to appear, I **CONCLUDE** that this case should be dismissed.


**ORDER**

It is **ORDERED** that this matter be **DISMISSED**.

It is further **ORDERED** that the Clerk return this file to the Office of Special Education Programs 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 (2019) 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 (2019). 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 Policy and Dispute Resolution.

March 20, 2025  
DATE

  
JUDITH LIEBERMAN, ALJ

Date Received at Agency

March 20, 2025

Date Mailed to Parties:

JL/mg