



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

**FINAL DECISION**

**FAILURE TO APPEAR**

OAL DKT. NO. EDS 01953-25

AGENCY DKT. NO. 2025-38589

**L.B. ON BEHALF OF L.B.,**

Petitioner,

v.

**WATCHUNG HILLS REGIONAL**

**BOARD OF EDUCATION,**

Respondent.

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

**Eric Harrison, Esq.,** for respondent (Methfessel & Werbel, P.C., attorneys)

Record Closed: June 2, 2025

Decided: June 6, 2025

BEFORE **JACOB S. GERTSMAN**, ALJ t/a:

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 her request for a due process hearing on January 24, 2025. The Department of Education, Office of Special Education transmitted the matter to the Office of Administrative Law, (OAL) where on February 7, 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 February 11, 2025.

On February 11, 2025, petitioner and respondent were advised of an initial proceeding to be held on February 13, 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 and my judicial assistant spoke to the petitioner the same day. A return receipt confirms that the email was delivered to petitioner. By email on February 11, 2025, petitioner advised my chambers that she was unavailable at that time and the initial proceeding was rescheduled for February 26, 2025, at 4:30 p.m. The notice, that provided the date and time of the call and the dial-in information, was sent to the parties by email and my judicial assistant spoke to the petitioner the same day. A return receipt confirms that the email was delivered to petitioner. In addition to her adjournment request, petitioner filed a motion for my recusal from this matter which was denied by my order dated February 13, 2025.

The parties requested a settlement conference which was scheduled with a settlement judge on February 20, 2025. The notice, that provided the date and time of the call and the dial-in information, was sent to the parties by email. A return receipt confirms that the email was delivered to petitioner. The parties then requested that the settlement conference be adjourned so that a new individualized education program (IEP) meeting could be scheduled. The settlement conference was rescheduled for March 4, 2025. The notice, that provided the date and time of the call and the dial-in information, was sent to the parties by email. A return receipt confirms that the email was delivered to petitioner, however, neither party appeared. The settlement conference was once again rescheduled for March 20, 2025. The notice, that provided the date and time of the call and the dial-in information, was sent to the parties by email. A return receipt confirms that the email was delivered to petitioner. The petitioner did not appear. Counsel for respondent appeared for the proceeding. Petitioner did not contact the OAL to explain her failure to appear or request a new proceeding.

A phone conference with the undersigned scheduled for March 20, 2025, was adjourned to accommodate the settlement conference and rescheduled for May 1, 2025, at 4:30 p.m. The notice, that provided the date and time of the call and the dial-in information, was sent to the parties by email and my judicial assistant spoke to the

petitioner the same day. A return receipt confirms that the email was delivered to petitioner. On April 30, 2025, my judicial assistant emailed the parties to remind them that the proceeding with the undersigned would take place the following day, May 1, 2025, at 4:30 p.m., where all case management issues would be discussed. The petitioner did not appear. Counsel for respondent appeared for the proceeding. Petitioner did not contact the OAL to explain her failure to appear or request a new proceeding.

On May 2, 2025, petitioner and respondent were advised of a rescheduled proceeding to be held on May 28, 2025, at 4:00 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. The petitioner once again did not appear. Counsel for respondent appeared for the proceeding. Petitioner did not contact the OAL to explain her 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 her. As of the date of this decision, none of the above notices have been returned to this office as undeliverable and petitioner has not contacted the OAL to explain her 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 she failed to appear for the three scheduled proceedings for which she received proper notice and did not communicate with the OAL about her 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.

June 6, 2025

DATE



JACOB S. GERTSMAN, ALJ t/a

Date Received at Agency

Date Mailed to Parties:

JG/cab