



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

**FINAL DECISION**

OAL DKT. NO. EDS 07234-25

AGENCY DKT. NO. 2025-39039

**K.D. ON BEHALF OF T.D.,**

Petitioner,

v.

**KINGSWAY REGIONAL SCHOOL**

**DISTRICT BOARD OF EDUCATION,**

Respondent.

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**K.D.**, petitioner, pro se

**R. Taylor Ruilova**, Esq., for respondent Kingsway Regional School District Board  
of Education (Comegno Law Group, P.C., attorneys)

Record closed: October 14, 2025

Decided: October 15, 2025

BEFORE **ROBERT D. HERMAN**, ALJ:

**STATEMENT OF THE CASE**

Petitioner, K.D., the mother of T.D., filed a due process petition with the New Jersey Department of Education, Office of Special Education (OSE), pursuant to N.J.A.C. 6A:14-2.7, seeking various relief on behalf of T.D. While the hearing was pending and approximately two weeks before the first hearing date, petitioner filed a motion to dismiss

without prejudice. Respondent, Kingsway Regional School District Board of Education (the District), did not oppose petitioner's motion. Where a petitioner files a motion to dismiss without prejudice before the hearing starts and the motion is unopposed, should the motion be granted? Yes. Pursuant to N.J.A.C. 1:1-1.3(a) and N.J.A.C. 1:1-12.7, a petitioner may withdraw their petition prior to the start of the hearing where the motion is unopposed.

### **PROCEDURAL HISTORY**

On April 30, 2025, petitioner filed a due process petition with the New Jersey Department of Education, Office of Special Education (OSE), pursuant to N.J.A.C. 6A:14-2.7, seeking various relief on behalf of her son, T.D., including emergent relief and an expedited hearing pursuant to N.J.A.C. 6A:14-2.7(r) and N.J.A.C. 6A:14-2.7(o), respectively. On May 1, 2025, petitioner's applications for emergent relief and for an expedited due process hearing were denied by the OSE in two successive letters. On May 30, 2025, petitioner's due process petition was transmitted to the Office of Administrative Law (OAL) to be heard as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

On Friday, October 10, 2025, the parties were advised that the hearing was to proceed on October 27, 2025. On Tuesday, October 14, 2025, petitioner's motion to withdraw her petition without prejudice was received by the OAL, and on the same date the District's counsel responded, advising that respondent did not oppose petitioner's motion to dismiss, without "tak[ing] any position with regard to the preservation of claims or reservation of rights by Petitioner as same would be governed by applicable law."

### **DISCUSSION AND CONCLUSIONS OF LAW**

N.J.A.C. 1:1-1.3 provides:

- (a) This chapter shall be construed to achieve just results, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. In the absence of a rule, a judge may proceed in accordance with the New

Jersey Court Rules, provided the rules are compatible with these purposes. Court rules regarding third party practices and class action designations may not be applied unless such procedures are specifically statutorily authorized in administrative hearings.

(b) Except as stated in (c) below, procedural rules may be relaxed or disregarded if the judge determines that adherence would result in unfairness or injustice. The judge shall make such determinations and state the reasons for doing so on the record.

(c) The burden of proof shall not be relaxed. Statutory procedural requirements shall not be relaxed or disregarded except when permitted by the controlling Federal or State statutes.

[N.J.A.C. 1:1-3.1.]

Motion practice in the OAL is set forth in N.J.A.C. 1:1-12.1 et seq. Considering the express purpose of the Uniform Administrative Procedure Rules outlined above, it would be contrary to the prescriptions of N.J.A.C. 1:1-1.3(a) to deny petitioner's motion to dismiss without prejudice at this juncture, more so in the absence of opposition by the non-moving party, here, the District.

### **ORDER**

For the reasons set forth above, I **ORDER** that petitioner's motion to dismiss without prejudice, with preservation of claims and remedies as permitted by law, shall be and hereby is **GRANTED**. Further, I hereby direct that this case be returned to the transmitting agency for disposition consistent with this decision.

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 (2025). 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.

October 15, 2025

DATE



**ROBERT D. HERMAN, ALJ**

Date Received at Agency

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Date Mailed to Parties:

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RDH/cb

**APPENDIX**

**Documents**

For the judge:

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| DOC 1 | Petitioner's emailed motion (dated October 11, 2025) (two pages)             |
| DOC 2 | Respondent's counsel's email response (dated October 14, 2025) (three pages) |