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No. 26C-DP-028-ADE

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEARANCES: Petitioners did not appear. Jennifer N. MacLennan, Esq. and
ay Reed, Esq. appeared on behalf of Respondent.

FINDINGS OF FACT

1. On October 24, 2025, the Arizona Department of Education issued a NOTICE OF HEARING to all parties setting the due process petition for hearing at 9:00 a.m. on December 9, 2025, before the Office of Administrative Hearings (“OAH”), an independent state agency located in Phoenix, Arizona.
2. The NOTICE OF HEARING further provided that a pre-hearing conference would be held on November 24, 2025 at 11:00 a.m.
3. The NOTICE OF HEARING included the language, “YOU ARE ADVISED that failure to appear at the scheduled hearing may result in the administrative law judge dismissing the matter or otherwise deciding the case against you.”
4. Petitioners failed to appear at the pre-hearing conference.
5. After the pre-hearing conference, the OAH issued a notice to both parties providing that the hearing would convene at 9:00 a.m. on December 9, 2025 through Google Meet.
6. On December 1, 2025, Respondent’s counsel communicated in writing to Petitioners indicating that the parties would start the hearing with building principal Paul Roskelley as a first witness at 9:00 am. Petitioners responded in the affirmative indicating that calling “Principal Roskelley at 9:00 am is fine”.

1 7. Petitioners had a subpoena issued for Mr. Roskelley's testimony;
2 the timeframe for the subpoena indicates 9:00 am.

3 8. Petitioners did not appear at the hearing on December 9, 2025. Although
4 afforded a fifteen (15) minute grace period, no representative for Petitioners appeared
5 at the hearing. Consequently, the hearing was not convened, and no evidence was
6 taken.

7 9. Petitioners subsequently filed a motion to continue the hearing date.
8 Petitioners alleged in the motion that Petitioners received a NOTICE OF HEARING that
9 provided that the hearing would start at 9:30 a.m. The Office of Administrative Hearings
10 did not provide a notice indicating that the hearing would start at 9:30 a.m. Petitioners did
11 not provide any written document showing that the hearing would begin at 9:30 a.m.

12 10. On December 16, 2025, the Administrative Law Judge denied the motion
13 to continue as it failed to establish good cause for a continuance.

14 **CONCLUSIONS OF LAW**

15 1. A parent who requests a due process hearing alleging non-compliance
16 with the Individuals with Disabilities Education Act (IDEA) must bear the burden of
17 proving that claim.¹ The standard of proof is "preponderance of the evidence," meaning
18 evidence showing that a particular fact is "more probable than not."² Therefore,
19 Petitioners bear the burden of proving their claims and complaints by a preponderance of
20 evidence.

21 2. If a party fails to appear at a hearing, the administrative law judge may
22 vacate the hearing.³

23 3. By failing to appear and prosecute due process complaint, the complaint
24 is unsupported by evidence and Petitioners have failed to meet the required burden of
25 proof.⁴ Consequently, the due process petition should be dismissed.⁵

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27 ¹ *Schaffer v. Weast*, 546 U.S. 49, 126 S. Ct. 528 (2005).

28 ² *Concrete Pipe & Prods. v. Constr. Laborers Pension Trust*, 508 U.S. 602, 622, 113 S. Ct. 2264, 2279
(1993) quoting *In re Winship*, 397 U.S. 358, 371-372 (1970); see also *Culpepper v. State*, 187 Ariz. 431,
437, 930 P.2d 508, 514 (Ct. App. 1996); *In the Matter of the Appeal in Maricopa County Juvenile Action No.*
29 *J-84984*, 138 Ariz. 282, 283, 674 P.2d 836, 837 (1983).

30 ³ See ARIZ. ADMIN. CODE R2-19-117.

⁴ See A.A.C. R2-19-119.

⁵ See *Link v. Wabash R.R.*, 370 U.S. 626, 629-30 (1962) and *Federal Rule of Civil Procedure 16(f)(1)(A)*

1
2 **ORDER**

3 Based on the findings and conclusions above, **IT IS HEREBY ORDERED** that
4 that the relief requested in the due process complaint is **denied** as set forth above and
5 Petitioners' Complaint is dismissed with prejudice.

6 **RIGHT TO SEEK JUDICIAL REVIEW**

7 Pursuant to 20 U.S.C. § 1415(i) and A.R.S. § 15-766(E)(3), this Decision and
8 Order is the final decision at the administrative level. Furthermore, any party aggrieved
9 by the findings and decisions made herein has the right to bring a civil action, with respect
10 to the complaint presented, in any State court of competent jurisdiction or in a Legacy
11 court of the United States. Pursuant to Arizona Administrative Code § R7-2-405(H) (8),
any party may appeal the decision to a court of competent jurisdiction within thirty-five
(35) days of receipt of the decision.

12 Copy mailed/e-mailed December 16, 2025 to:

13 Transmitted by either mail, e-mail, or facsimile to:

14
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