

STATE OF NORTH CAROLINA
COUNTY OF UNION

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
20 EDC 03534

<p>█ by parent or guardian █ Petitioner,</p> <p>v.</p> <p>Union, Mathews Director of Special Education Board of Education Respondent.</p>	<p>FINAL DECISION DISMISSAL WITHOUT PREJUDICE</p>
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THIS MATTER comes on for consideration of the Undersigned's Order of Insufficiency Granting Leave for Petitioners to Amend Petition, which was filed on September 25, 2020. Petitioners were given thirty days to amend their Petition in accordance with the Order, and they have failed to do so. Therefore, the Undersigned makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Petition in this matter was filed with the Office of Administrative Hearings on September 10, 2020.
2. On September 25, 2020, Respondent filed a Notice of Insufficiency, asserting that the Petition filed on September 10, 2020 did not comply with the requirements of 20 U.S.C. § 1415(b)(7)(A)(ii).
3. Upon careful consideration of the Respondent's Notice, the Undersigned issued an Order on September 25, 2020 finding the Petition insufficient for failing to include specific facts relating to the allegations, as required by 20 U.S.C. § 1415(b)(7)(A)(ii).

4. Petitioners were granted leave to amend their petition in accordance with the requirements set forth by the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 *et seq.*, and the implementing regulations, 34 C.F.R. Part 300.

5. Petitioners have not filed an amended petition within the timeframe granted in the Order. Petitioners were informed in the Order that they had 30 days from receipt of the Order to file their amended petition, and if they did not do so, Respondent was authorized to file appropriate dismissal motions.

6. Respondent has filed a Motion to Dismiss the Contested Case Hearing by involuntary dismissal pursuant to N. C. Gen Stat. § 1A-1, Rule 41(b).

7. Petitioners are not prejudiced by this dismissal, because they may file a new action based on the same claims and in compliance with IDEA within one year or less after this dismissal.

FINAL DECISION

THEREFORE, based on the foregoing, it is hereby **ORDERED** that the contested case be **DISMISSED WITHOUT PREJUDICE** and, pursuant to N.C. Gen. Stat. § 1A-1, Rule 41(b), Petitioner may file a new action on the same claims within one year or less after this dismissal.

NOTICE OF APPEAL RIGHTS

In accordance with the Individuals with Disabilities Education Act and North Carolina's Education of Children with Disabilities laws, the parties have appeal rights regarding this dismissal.

Under North Carolina's Education of Children with Disabilities laws (N.C.G.S. §§ 115C-106.1 *et seq.*) and particularly N.C.G.S. § 115C-109.9, "any party aggrieved by the findings and decision of a hearing officer under G.S. 115C-109.6 or G.S. 115C-109.8 may **appeal the findings and decision within 30 days after receipt of notice of the decision by filing a written notice of**

appeal with the person designated by the State Board under G.S. 115C-107.2(b)(9) to receive notices. The State Board, through the Exceptional Children Division, shall appoint a Review Officer from a pool of review officers approved by the State Board of Education. The Review Officer shall conduct an impartial review of the findings and decision appealed under this section.”

Inquiries regarding the State Board’s designee, further notices and/or additional timelines should be directed to the Exceptional Children Division of the North Carolina Department of Public Instruction, Raleigh, North Carolina, prior to the required close of the appeal filing period.

IT IS SO ORDERED.

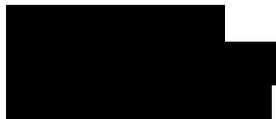
This the 4th day of November, 2020.



Stacey Bice Bawtinheimer
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:



Parent

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Attorney For Respondent

Teresa Silver King
NC Department of Public Instruction
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Affiliated Agency

This the 4th day of November, 2020.

A handwritten signature in blue ink that reads "Anita M. Wright".

Anita M Wright
Paralegal
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