

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
20 EDC 02346

<p>■ by parent or guardian ■ Petitioner,</p> <p>v.</p> <p>Guilford County Board of Education Respondent.</p>	<p>FINAL DECISION ORDER OF DISMISSAL</p>
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THIS MATTER COMES ON for consideration of Respondent's Amended Motion to Dismiss pursuant to Rule 41(b). Petitioner has filed a Response.

ISSUE

Should the Petition be dismissed for failure of the petitioner to prosecute the case?

FINDINGS OF FACT

1. The Respondent's motion states in detail how Petitioner failed to provide complete responses to discovery and did not comply with orders concerning discovery.
2. The Petitioner's response to the motion requests that the Motion to Dismiss be granted and that the Request for Continuance be denied.
3. The Petitioner has failed to prosecute this contested case.

CONCLUSION OF LAW

This contested case is subject to dismissal pursuant to GS 1A-1, Rule 41(b), Rules of Civil Procedure, GS 150B-33(b)(10), GS 150B-34(e) and 26 NCAC 03 .0114, for failure of the Petitioner to comply with the previous Order of the undersigned administrative law judge and for failure to prosecute the case.

FINAL DECISION

It is hereby ORDERED that the contested case be **DISMISSED** with prejudice.

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 time lines 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 8th day of March, 2021.



Selina Malherbe
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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This the 8th day of March, 2021.

A handwritten signature in blue ink that reads "VTsuprenko".

Viktoriya Tsuprenko
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