

OAL DKT. NO. EDU 3670-08
AGENCY DKT. 77-3/08

A.P., on behalf of minor child, J.T.,	:	
PETITIONER,	:	COMMISSIONER OF EDUCATION
V.	:	DECISION ON APPLICATION FOR EMERGENT RELIEF
BOARD OF EDUCATION OF THE BOROUGH OF FAIR LAWN, BERGEN COUNTY,	:	
RESPONDENT.	:	

The record of this matter, the audiotape of proceedings at the Office of Administrative Law (OAL) and the recommended order of the Administrative Law Judge (ALJ) have been reviewed.

Upon such review, the Commissioner concurs with the ALJ that the petitioner has failed to meet the requisite standards for the granting of emergent relief pursuant to *Crowe v. DeGioia*, 90 N.J. 126 (1982); see also *N.J.A.C.* 6A:3-1.6. In particular, the Commissioner notes that applicants seeking this extraordinary remedy must demonstrate – in addition to irreparable harm – a likelihood of success on the merits of the underlying appeal and a balancing of interests and equities which rests in their favor – none of which the petitioner herein can be found to have done, for the reasons fully set forth by the ALJ in the pertinent portion of the explanatory attachment (pages 1 through the first full paragraph of page 4), incorporated into the recommended order at 2.¹

¹ Because its allegations arose out of both school law under the jurisdiction of the Commissioner and special education law subject to proceedings pursuant to *N.J.A.C.* 6A:14-2.7, this matter was concurrently transmitted to the OAL by the Bureau of Controversies and Disputes and the Office of Special Education Programs with the request that it be initially docketed and reviewed as a special education (EDS) case – where the ALJ would issue the final agency decision as required by law – and thereafter, on any remaining issues, as a general education (EDU) case subject to review and final decision by the Commissioner. The aforementioned attachment addresses issues

Accordingly, for the reasons expressed therein, the Order of the ALJ – DENYING the petitioner’s application for relief – is adopted as the final decision in this emergent matter as to those allegations arising under the school laws. Since the relief requested by the petitioner pursuant to the school laws has been rendered moot by denial of the emergent application, this matter shall be returned to the OAL for such proceedings as are necessary to bring it to closure.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: March 26, 2008
Date of Mailing: March 26, 2008 Faxed

pertaining to the EDS as well as the EDU matter, and is relied upon by both the order under review herein and the final order – likewise denying emergent relief – issued in the related special education matter (EDS 3669-06).

² This decision may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A:4-1.1 et seq.*