

OAL DKT. NO. 14242-11
AGENCY DKT. NO. 348-11/11

ANDREW MONAGHAN,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE TOWNSHIP	:	DECISION ON
OF WAYNE, PASSAIC COUNTY	:	
AND MICHAEL ROTH,	:	APPLICATION FOR EMERGENT RELIEF
INTERIM SUPERINTENDENT,	:	
	:	
RESPONDENTS.	:	
	:	

The record of this emergent matter – including the recorded proceedings of the hearing conducted at the Office of Administrative Law (OAL) on December 1, 2011 – along with the recommended Order of the Administrative Law Judge (ALJ) have been reviewed.

Upon full review and consideration, the Commissioner is in full accord with the ALJ’s determination that petitioner has failed to satisfy the requirements necessary for the granting of emergent relief as set forth in *Crowe v. DeGioia*, 90 N.J. 126 (1982). Initially, with respect to petitioner’s claim that his three-day suspension was imposed without providing him with his due process rights or lacked any basis in fact, the Commissioner agrees with the ALJ that the remedies available to petitioner at this point in time – should such claim ultimately prove valid – do not rise to the level of establishing irreparable harm, but are more appropriately redressed after a full plenary hearing. However, the Commissioner further agrees with the ALJ that petitioner has met the threshold standard of irreparable harm relative to his participation in the championship football game, but has failed to sustain his requisite burden of satisfying the remaining prongs of *Crowe*, *i.e.*, that the legal right underlying his claim is well settled, that he has a likelihood of success on the merits of his underlying appeal, and that the balance of interests and equities under the circumstances rests in his favor.

Accordingly, the recommended Order of the OAL denying petitioner's application for emergent relief is adopted. This matter shall proceed at the OAL for whatever action may be required to bring it to conclusion.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: December 2, 2011

Date of Mailing: December 2, 2011

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).