

EDU # 2015-05
C # 394-05L
SB # 46-05

R.O., on behalf of minor child, R.O., II, :
PETITIONER-APPELLANT, :
V. : STATE BOARD OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION ON MOTION
WEST WINDSOR-PLAINSBORO :
SCHOOL DISTRICT, :
RESPONDENT-RESPONDENT. :

Decision on motion by the Acting Commissioner of Education, October 28,
2005

For the Petitioner-Appellant, R.O., Esq., pro se

For the Respondent-Respondent, Methfessel & Werbel (Eric L. Harrison,
Esq., of Counsel)

R.O. (hereinafter "petitioner") filed a petition of appeal with the Commissioner of Education against the Board of Education of the West Windsor-Plainsboro School District (hereinafter "Board"), challenging the Board's action in suspending his son for possessing a knife on school premises. During the course of the proceedings, the petitioner filed a motion seeking to compel the Board to provide answers to his latest set of interrogatories consistent with N.J.A.C. 1:1-12.2.

On September 30, 2005, an Administrative Law Judge ("ALJ") denied the motion. The ALJ found that the petitioner had "failed to address [the Board's] relevancy objections. Additionally, petitioner has provided this tribunal with no information

whatsoever that would assist in making a determination as to whether the sought-after information is relevant or is otherwise in any way likely to lead to the discovery of admissible evidence.” Order of September 30, 2005, slip op. at 2. The petitioner sought reconsideration of the ALJ’s Order, and, in an Amended Order issued on October 19, 2005, the ALJ denied the petitioner’s request, finding that he had not come forth with sufficient grounds establishing the necessity to reconsider the Order of September 30. The ALJ concluded that “petitioner has not produced any convincing statement of the matters or controlling decisions which counsel believes this tribunal has overlooked or to which it has erred....I am further satisfied that [the Board] has adequately responded to petitioner’s earlier discovery inquiries. Petitioner’s apparent dissatisfaction with the veracity of [the Board’s] responses can be addressed during the hearing, if applicable.” Amended Order, slip op. at 1-2.

The petitioner sought interlocutory review from the Commissioner, and, on October 28, 2005, the Acting Commissioner of Education determined not to grant interlocutory review pursuant to her discretion under N.J.A.C. 1:1-14.10.

The petitioner filed a motion with the State Board of Education for leave to appeal the Acting Commissioner’s determination to deny interlocutory review. N.J.A.C. 6A:4-2.3.

After reviewing the papers submitted, we deny the motion. We find that the petitioner has not demonstrated good cause requiring our review of the Acting Commissioner’s determination not to grant interlocutory review of the ALJ’s ruling. In re Certain Sections of the Uniform Admin. Procedure Rules, 90 N.J. 85 (1982). Nor has

the petitioner demonstrated that the Acting Commissioner abused her discretion in not granting interlocutory review. N.J.A.C. 1:1-14.10.

March 1, 2006

Date of mailing _____