

EDU # 6674-02
C # 400-05
EDU #10118-05
C # 264-06
SB # 36-06

T.F.S. AND C.S., :
on behalf of minor child, J.R.S., :
 :
PETITIONERS-APPELLANTS, : STATE BOARD OF EDUCATION
 :
V. : DECISION ON MOTION
 :
BOARD OF EDUCATION OF THE :
TOWNSHIP OF SOUTH BRUNSWICK, :
MIDDLESEX COUNTY, :
 :
AND :
 :
DR. SAMUEL STEWART, :
SUPERINTENDENT, :
 :
RESPONDENTS-RESPONDENTS. :

Remanded by the Acting Commissioner of Education, November 2, 2005

Decided by the Acting Commissioner of Education, August 4, 2006

For the Petitioners-Appellants, T.F.S. and C.S., pro se

For the Respondents-Respondents, Parker McCay, P.A. (John E. Collins,
Esq., of Counsel)

In a decision issued on August 4, 2006, the Acting Commissioner of Education¹
dismissed the petition filed by T.F.S. and C.S., the appellants herein, who challenged

¹ We note that on October 16, 2006, Acting Commissioner Lucille E. Davy was confirmed as the Commissioner of Education.

the decision by the South Brunswick Board not to provide transportation for their children. The appellants, who lived approximately one mile from school, claimed that the walking route to school was not safe.

On August 31, 2006, the appellants filed the instant appeal to the State Board, and on October 23, 2006, they filed a motion to supplement the record on appeal with four photographs, which the appellants have labeled as Figures A, B, C and D, purportedly showing a portion of the walking route.² The appellants contend that “[t]hese additional photos will show, that in addition to the photos already presented during the ALJ hearing process, the CHRONIC NATURE of the ‘blocked sidewalks and intersections,’ weeks after a snowfall...” Brief in Support of Motion, at 1 (capitalization in original).

After a thorough review of the papers filed, we deny the appellants’ motion. We agree with the respondents that the appellants “had ample opportunity to submit all relevant evidence at the hearing in this matter. The submission of additional photographs at the current stage of the proceedings would deprive the respondent of its right of cross examination to test the authenticity and relevance of the alleged new evidence.” Brief in Opposition to Motion, at 1.

² We note that the appellants filed a motion to supplement the record after they were informed that several of the photographs reproduced in their appeal brief were not included in the record on appeal and would not be considered by the State Board in reviewing this matter. Review of the record certified to the State Board on behalf of the Acting Commissioner revealed that 15 of the photographs in the appellants’ brief were included within Exhibit P-1, which was admitted into evidence by the Administrative Law Judge. Therefore, these photos, which were labeled as Figures 22 through 36 in Exhibit P-1, are part of the record on appeal. N.J.A.C. 6A:4-1.8(a).

We therefore deny the appellants' motion to supplement the record and, in reviewing this matter, will disregard the photographs labeled by the appellants as Figures A, B, C and D and all references thereto in their brief.

January 3, 2007

Date of mailing _____