

OAL DKT. NO. EDU 4627-99
AGENCY DKT. NO. 164-6/99

G.J.C. AND L.C., ON BEHALF OF :
MINOR CHILD, N.C., :

PETITIONERS, :

V. :

COMMISSIONER OF EDUCATION
DECISION ON MOTION

BOARD OF EDUCATION OF THE :
BOROUGH OF SOMERVILLE, :
SOMERSET COUNTY, :

RESPONDENT. :

_____ :

The record and initial decision on motion for emergent relief have been reviewed. Upon such review, the Assistant Commissioner, to whom this matter has been delegated by the Commissioner pursuant to N.J.S.A. 18A:4-34, does not concur with the ALJ that, under the circumstances herein, petitioners have met the criteria for grant of emergent relief as set forth in *Crowe v. DeGioia, supra*.

In particular, the Assistant Commissioner finds that petitioners have not made a preliminary showing of likelihood of success on the ultimate merits of their claim. Petitioners make no allegation that they had inadequate notice of the Board's policies or N.C.'s status with respect to possible loss of credit due to his repeated absence and tardiness. Further, the record is clear that the Board considered the circumstances of N.C.'s absences before applying its policy

to him, and petitioners have made no facial showing that the Board's determination in this regard was an abuse of its lawful discretionary authority.

Accordingly, the Assistant Commissioner finds that petitioners have not demonstrated an entitlement to extraordinary relief and, therefore, reverses the initial decision. The motion for emergent relief is DENIED and this matter shall continue at the Office of Administrative Law for such proceedings as are necessary to determine the underlying claim on its merits.

IT IS SO ORDERED.

ASSISTANT COMMISSIONER

JUNE 25, 1999