

EDU #208-01  
C #241-01  
SB # 34-01

M.G. AND M.G., on behalf of minor child, A.G., :  
PETITIONERS-APPELLANTS, : STATE BOARD OF EDUCATION  
V. : DECISION  
BOARD OF EDUCATION OF THE TOWNSHIP :  
OF WASHINGTON, GLOUCESTER COUNTY, :  
RESPONDENT-RESPONDENT. :  
\_\_\_\_\_ :

Decided by the Commissioner of Education, August 6, 2001

For the Petitioners-Appellants, Christopher M. Manganello, Esq.

For the Respondent-Respondent, Capehart & Scatchard, P.A. (Joseph F. Betley, Esq., of Counsel)

The petitioners filed a petition with the Commissioner of Education challenging the action by the Board of Education of the Township of Washington (hereinafter "Board") expelling their son, A.G., from school following two positive drug tests. On August 6, 2001, the Commissioner dismissed the petition.

On September 7, 2001, the petitioners filed the instant appeal to the State Board of Education.

Pursuant to N.J.A.C. 6A:4-1.11(a), the petitioners' brief in support of their appeal was due on September 27, 2001, 20 days after they filed their notice of appeal. The petitioners, however, failed to file a brief by that date. By letter dated October 1, 2001, the Director of the State Board Appeals Office ("Director") notified the petitioners of their

failure to file a brief and informed them that this matter was being referred to the Legal Committee of the State Board for consideration of their failure to perfect the appeal.

By letter dated October 30, 2001, the counsel for the petitioners indicated that:

my office mistakenly failed to submit a brief in support of the appeal with regard to the above-referenced matter. Please be advised that I thought that the brief was submitted with the original notice of appeal; however, that was evidently not the case. I respectfully request that the State Board of Education permit me additional time to file said brief.

By letter dated November 2, 2001, the Director responded that:

On Wednesday, October 24, 2001, your secretary called this office to say that a brief would be filed by Monday, October 29, 2001. She was advised that you would have to submit a certification explaining why the brief had not been timely filed and that it would be necessary to seek leave of the Legal Committee to file your brief. She was further advised that the brief should accompany this request and that it was necessary to file an original and seventeen (17) copies of all documents. There was no further contact from your office until we received your letter of October 30, 2001.

If you wish to seek leave of the Legal Committee to file your appeal brief nunc pro tunc, you are required to file the original and seventeen copies of any such request along with the brief.

On November 13, 2001, the counsel for the petitioners called the State Board Appeals Office and indicated that he had just received the Director's letter of November 2. He further indicated that his secretary had not fully informed him of the details of her conversation of October 24 with the State Board Appeals Office. He gave his assurance that the brief would be filed by November 16.

However, no brief was filed by that date. In fact, counsel for the petitioners has still failed to file a brief in support of the appeal, more than two months after the filing deadline, despite repeated assurances from him and his office that the brief would be

filed. Nor has he communicated with the State Board Appeals Office since his telephone call of November 13, sought leave to file nunc pro tunc or offered any explanation for his ongoing failure to file a brief. As a result, we dismiss the appeal in this matter for failure to perfect. N.J.A.C. 6A:4-1.12(a). See Paszamant v. Board of Education of the Borough of Highland Park, decided by the State Board, April 1, 1992, aff'd, Docket #A-4812-91-3 (App. Div. 1993).

December 5, 2001

Date of mailing \_\_\_\_\_