

EDU #3109-03
C # 204-03
SB # 13-03

S.A., on behalf of minor, R.A., R.B., on :
behalf of minor, E.B., S.K. on behalf :
of minor, J.K, D.P., on behalf of minor, J.P., :
and R.Z., on behalf of minor, D.Z., :
PETITIONERS-APPELLANTS, : STATE BOARD OF EDUCATION
V. : DECISION ON MOTION
BOARD OF EDUCATION OF THE CITY :
OF GARFIELD, BERGEN COUNTY :
AND NEW JERSEY STATE :
DEPARTMENT OF EDUCATION, :
RESPONDENTS-RESPONDENTS. :

Decided by the Commissioner of Education, April 22, 2003

Decision on motion by the Commissioner of Education, May 13, 2003

For the Petitioners-Appellants, Maycher Lynch Bartzos LLP (Dennis A. Maycher, Esq., of Counsel)

For the Respondent-Respondent Board of Education of the City of Garfield, Steven M. Segalas, Esq.

For the Respondent-Respondent New Jersey State Department of Education, Allison Colsey Eck, Deputy Attorney General (Peter C. Harvey, Attorney General of New Jersey)

Petitioners in this matter are teachers and employees of the Board of Education of the City of Garfield (hereinafter "Board") who were notified that as of March 17, 2003 the Board's pre-school program would no longer be available to their nonresident

children unless they paid tuition for the rest of the school year. Petitioners sought emergent relief from the Commissioner and, on March 28, 2003, an Administrative Law Judge (“ALJ”) recommended that the Commissioner grant them relief. The Commissioner rejected the ALJ’s recommendation, finding that the petitioners had not satisfied the four-pronged standard that would entitle them to relief under Crowe v. De Gioia, 90 N.J. 126 (1982). Petitioners appealed to the State Board from the Commissioner’s denial of emergent relief and also sought a stay of the Commissioner’s decision pending the State Board’s determination of their appeal.

After reviewing the arguments of counsel, the State Board of Education denies petitioners’ motion for a stay of the Commissioner’s decision of April 22, 2003, which denied petitioners’ application for emergent relief. In doing so, we stress, as did the Commissioner in his letter decision of May 13, 2003 denying petitioners’ application for a stay, that the standard articulated in Crowe v. De Gioia, supra, governs whether petitioners’ motion for a stay should be granted as well as whether they should be afforded emergent relief. Under this standard, we, like the Commissioner, find that petitioners have offered no basis that would justify granting their motion for a stay.

July 2, 2003

Date of mailing _____