

June 22, 2006

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Dear Counsel:

D.E., JR. V. BOARD OF EDUCATION OF THE BOROUGH OF BOUND BROOK,
SOMERSET COUNTY AND C.B., on behalf of minor children, R.M.B. AND R.B. V.
BOARD OF EDUCATION OF THE BOROUGH OF BOUND BROOK, SOMERSET
COUNTY, STATE BOARD DOCKET #27-06

In a letter dated March 27, 2006, the petitioner, D.E., Jr., was notified by the principal of the Bound Brook Middle/Senior High School that he was being suspended from school for assaulting another student. The petitioner was provided with home instruction, and an expulsion hearing was scheduled for April 18, 2006. On April 17, counsel for the petitioner requested a postponement of that hearing. The expulsion hearing was subsequently rescheduled for June 14, 2006 and later postponed until June 27.

On or about May 24, 2006, the petitioner filed a petition of appeal with the Acting Commissioner challenging his suspension. He also filed a motion for a stay of the suspension pending a hearing on the merits of the petition.

On June 7, 2006, an Administrative Law Judge ("ALJ") recommended that the Acting Commissioner deny the petitioner's motion to stay the suspension. The ALJ concluded that the petitioner had not satisfied the standards that would entitle him to such relief under Crowe v. De Gioia, 90 N.J. 126 (1982). On June 12, 2006, the Acting Commissioner adopted the ALJ's recommended order and denied the petitioner's request for emergent relief, agreeing that the petitioner had failed to satisfy the requirements set forth in Crowe.

On June 20, 2006, the petitioner filed the instant motion with the State Board for leave to appeal the Acting Commissioner's decision denying his application for emergent

relief. On June 21, 2006, the Bound Brook Board filed a letter brief in opposition to the motion.

After a thorough review of the record and the papers filed on the motion, we deny the petitioner's motion.¹ We fully agree with the ALJ and the Acting Commissioner that the petitioner has not satisfied the standards set forth in Crowe, supra for such relief. We add that counsel for the Bound Brook Board avers in a certification that the last day of school is today, June 22, and that the petitioner will receive passing grades in all of his subjects. Moreover, an expulsion hearing is scheduled before the Board next Tuesday, June 27. Under the circumstances, we find no basis for granting the relief sought, and we deny the petitioner's motion to stay the suspension.

Sincerely,

Dr. Arnold G. Hyndman, President
State Board of Education

Debra Casha, Chairperson
Legal Committee of the State Board

c: Members of the State Board of Education

¹ Pursuant to N.J.A.C. 6A:4-3.3, "[t]he President of the State Board or, in the President's absence, the chairperson of the Legal Committee is authorized to decide on behalf of the State Board applications for emergency relief made pursuant to N.J.A.C. 6A:4-2.4 unless the determination would constitute the final decision with respect to the controversy."