

#107-13E (OAL Decision: Not available online)

L.C., on behalf of minor child, D.C., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
BURLINGTON COUNTY INSTITUTE
OF TECHNOLOGY, :
RESPONDENT. :

SYNOPSIS

Petitioner sought an emergent relief order directing the respondent Board to immediately reinstate her child, D.C., to his educational program after his due process rights were allegedly violated when he was suspended and placed on home instruction. The Board contended that the procedural safeguards sought by petitioner are not applicable because D.C. was neither suspended nor disciplined, but was removed from his educational program as the result of a medical opinion which indicated that D.C. could be a risk to himself or other students if he were returned to the school.

The ALJ issued an Order on Emergent Relief which found that the petitioner had failed to demonstrate entitlement to emergent relief pursuant to *Crowe v. DeGioia*, 90 N.J. 126 (1982), codified at N.J.A.C. 6A:3-1.6. The ALJ forwarded the case to the Commissioner of Education for a final decision in this matter.

During the Commissioner's review of the Order on Emergent Relief, the petitioner withdrew her appeal. As a result the Commissioner determined that the underlying issues in this matter are now moot and the petition of appeal was dismissed.

<p>This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

March 19, 2013

OAL DKT. NO. EDU 1405-13
AGENCY DKT. NO. 20-2/13

L.C., on behalf of minor child, D.C., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
BURLINGTON COUNTY INSTITUTE :
OF TECHNOLOGY, :
RESPONDENT. :

This matter involves an appeal and request for emergent relief filed by the petitioner challenging the Board of Education's decision in connection with her minor child. The Administrative Law Judge issued an Order on Emergent Relief finding that petitioner has failed to demonstrate entitlement to emergent relief pursuant to *Crowe v. DeGioia*, 90 N.J. 126 (1982), and codified at *N.J.A.C. 6A:3-1.6*.¹ During the Commissioner's review of the Order on Emergent Relief, the petitioner withdrew her appeal and as a result the underlying issues in this matter are now moot. Accordingly, the petition of appeal is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: March 19, 2013

Date of Mailing: March 20, 2013

¹ Both parties filed exceptions to the Order on Emergent Relief. The parties are reminded that there is no provision in the Administrative Code that permits the filing of exceptions to Orders on Emergent Relief.

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).