

February 25, 1997

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Geraldine Callahan, DAG
Department of Law and Public Safety
Division of Law
CN 112
Trenton, NJ 08625

Dear Counsel:

IN THE MATTER OF EDWARD GORE, HAMILTON TOWNSHIP BOARD OF
EDUCATION, STATE BOARD DOCKET #9-97

On November 26, 1996, the School Ethics Commission determined that Edward Gore (hereinafter "respondent"), a member of the Board of Education of the Township of Hamilton, had violated N.J.S.A. 18A:12-24(b) of the School Ethics Act by using his position on that board to secure the home addresses of district employees and then using that information to send recently-appointed employees a letter advising them that their jobs could be in jeopardy if they did not vote a certain way in an upcoming school election.¹ As a result of such determination, the Ethics Commission recommended that respondent be censured. N.J.A.C. 6:3-9.19.

In a decision dated January 30, 1997, the Commissioner of Education adopted the Ethics Commission's recommended penalty and directed that respondent be censured as a school official found to have violated the School Ethics Act.

¹ N.J.S.A. 18A:12-24(b) provides that:

No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others.

On February 10, 1997, respondent filed an appeal to the State Board of Education. On February 13, respondent filed a motion for a stay with the Commissioner. On February 19, the Commissioner issued a letter decision denying that request. On February 21, respondent filed the instant application for emergent relief with the State Board, pursuant to N.J.A.C. 6:2-2.4, seeking a stay of the Commissioner's directive. In support of his request, respondent argues that his reputation will suffer irreparable harm if a stay is not granted. Respondent contends that the reading of the censure at a public meeting of the Hamilton Township Board "would create irreparable harm in that the public will perceive the decision as final when, in fact, it is on appeal and may be reversed." Brief in support of application for emergent relief, at 4. Respondent maintains that "any subsequent retraction publicly read by the School Board [in the event of a reversal on appeal] would not undo the damage that had already occurred to [his] reputation." Id. Respondent requests the State Board to render a determination on his application by February 26, the next scheduled public meeting of the Hamilton Board.

Inasmuch as we agree with the Commissioner that respondent's application fails to meet the standards that would entitle him to emergent relief under Crowe v. De Gioia, 90 N.J. 126 (1982), we deny his application.²

We reject respondent's contention that he will suffer irreparable harm in the event his application is denied. The written decision of the Commissioner to censure respondent is a public document, and a reading of that determination at a public board meeting would not disclose any information which is not already readily available to the public. Nor has respondent demonstrated in his application a likelihood of prevailing on the merits of this matter.

Accordingly, we deny respondent's application for emergent relief.

Sincerely,

Robert A. Woodruff, President
State Board of Education

Maud Dahme, Chairperson
Legal Committee of the State Board

c: Members, State Board of Education
Audrey Kerrigan
Nancy Kaplen
Roslynn Novack

² Pursuant to N.J.A.C. 6:2-3.3, "[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. 6:2-2.4 unless the determination would constitute the final decision with respect to the controversy."

RAW/MD/JL/Gore