

C #603-97
SB # 93-97

DR. JOHN SHERRY, ASSISTANT :
COMMISSIONER, DIVISION OF FIELD :
SERVICES, :

PETITIONER-RESPONDENT, :

V. : STATE BOARD OF EDUCATION

BOARD OF EDUCATION OF THE : DECISION
CITY OF ATLANTIC CITY AND :
DR. H. BENJAMIN WILLIAMS, SUPER- :
INTENDENT, ATLANTIC CITY SCHOOL :
DISTRICT, ATLANTIC COUNTY, :

RESPONDENT-APPELLANT. :

Decided by the Commissioner of Education, November 19, 1997

Decision on motion by the State Board of Education, November 26, 1997

For the Petitioner-Respondent, John K. Worthington, Deputy Attorney
General (Peter Verniero, Attorney General of New Jersey)

For the Respondent-Appellant, Michael C. Epps, Esq.

This matter involves an appeal filed by the Board of Education of the City of Atlantic City (hereinafter "Board") on November 25, 1997 from a decision of the Commissioner of Education directing that all fifth-grade students be removed from the Albany Avenue School by December 1, 1997. At the same time, the Board sought emergent relief from the State Board in the form of a stay of the Commissioner's order pending the State Board's decision on the merits of the underlying appeal. By letter

dated November 26, 1997, we denied the Board's application because it did not meet the standards which would have entitled it to emergent relief.

The parties then filed their briefs on the merits. The Board filed its appeal brief on December 15, 1997, and a Deputy Attorney General filed an answer brief on behalf of Assistant Commissioner John Sherry, who is the respondent in this appeal.

By letter of February 27, 1998, we advised both parties that since the fifth-grade students had been removed from the Albany Avenue School by December 1, 1997, as had been directed by the Commissioner, the Legal Committee was recommending to the State Board that, in the absence of any objection, the appeal be dismissed. Neither party filed any objections to such dismissal. Therefore, because the appeal is moot, and in the absence of any objection, the State Board of Education dismisses the appeal in this matter.

June 3, 1998

Date of mailing _____