

EDU #2010-05
C # 161-06M, 100-06, 358-05L, 394-05L
SB # 22-06

R.O., on behalf of minor child, R.O., II, :
Petitioner-Appellant, :
V. : STATE BOARD OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
WEST WINDSOR-PLAINSBORO SCHOOL :
DISTRICT, MERCER COUNTY, :
Respondent-Respondent. :

Decided by the Acting Commissioner of Education, March 17, 2006

Decision on motion by the Acting Commissioner of Education, April 27,
2006

For the Petitioner-Appellant, R.O., pro se

For the Respondent-Respondent, Methfessel & Werbel
(Eric L. Harrison, Esq., of Counsel)

Appellant, R.O., filed a petition with the Commissioner of Education challenging a ten-day suspension imposed upon his minor son for possessing a weapon on school property and seeking to remove any mention of the suspension from his son's school records. The Administrative Law Judge granted the respondent school district's motion for summary decision, holding that there were no material facts in dispute and dismissing appellant's application to reverse the suspension or expunge the suspension from R.O., II's record as inaccurate, irrelevant or otherwise improper. The Acting Commissioner adopted the decision of the ALJ and dismissed appellant's petition.

On April 30, 2006, R.O. filed the instant appeal to the State Board.

After filing his petition appellant, by letter dated May 19, 2006, requested that the matter be placed in abeyance for medical reasons and until such time as the Acting Commissioner rendered a determination with respect for clarification of her decision. That request was granted and the matter was placed into abeyance.

Subsequently, on August 3, 2006, appellant requested that the matter remain in abeyance pending issuance of a decision by the Superior Court, Appellate Division, in a related Juvenile Court proceeding involving R.O., II. That request was granted and the matter was placed in abeyance until the Appellate Division decision was issued in June 2007.

By letter dated June 13, 2007 from the Acting Director of State Board Appeals, appellant was informed that the matter was no longer being held in abeyance, and that a briefing schedule had been established for the appeal. Appellant subsequently renewed his request to hold the matter in abeyance because he was filing for reconsideration of the decision of the Appellate Division and, if necessary, for review of the appeal by the New Jersey Supreme Court. Appellant's renewed request was denied by the Legal Committee of the State Board at its July 18, 2007 meeting and relayed to appellant by letter from the Acting Director of State Board Appeals dated July 19, 2007. Appellant was also informed in the July 19, 2007 letter that his brief in support of his appeal was due August 10, 2007.

On July 30, 2007, appellant again wrote to the State Board requesting that the matter be placed in abeyance pending a determination of the Supreme Court with respect to his petition for certification. By letter dated August 2, 2007, the Acting Director of State Board Appeals informed appellant that his renewed request would be

considered by the Legal Committee of the State Board at its next meeting, and reminded appellant that the matter was no longer on abeyance and that his brief in support of his appeal was due August 10, 2007. No brief in support of the appeal was filed by appellant on or before the August 10, 2007 due date.

After the meeting of the Legal Committee on August 21, 2007, appellant was informed by the Acting Director of State Board Appeals by letter dated August 22, 2007 that his renewed request to hold the appeal in abeyance was denied by the Legal Committee. The Acting Director also informed appellant in the August 22, 2007 letter that the matter would be referred to the Legal Committee for consideration of appellant's failure to file a brief in support of his appeal.

Appellant did not file a brief or an explanation for his failure to timely file a brief in support of his appeal after the August 22, 2007 letter was sent to him. In that appellant's brief was not filed by August 10, 2007, and appellant has failed to provide an explanation for his failure to file a brief in support of his appeal, we dismiss the appeal in this matter for failure to perfect. N.J.A.C. 6A:4-1.12(a). See Paszamant v. Board of Education of the Borough of Highland Park, decided by the State Board of Education, April 1, 1992, aff'd, Docket #A-4812-91-3 (App. Div. 1993).

October 17, 2007

Date of mailing _____