

DENISE JONES ET AL., :
PETITIONERS-APPELLANTS, :
V. : STATE BOARD OF EDUCATION
LEO F. KLAGHOLZ, COMMISSIONER OF :
EDUCATION, AND NEW JERSEY STATE :
BOARD OF EDUCATION, :
RESPONDENTS-RESPONDENTS. :
DECISION ON MOTION

For the Petitioners-Appellants, Education Law Center (David G. Sciarra, Esq., of Counsel) and Gibbons, DelDeo, Dolan, Griffinger & Vecchione (David B. Thronson, Esq., of Counsel)

For the Respondents-Respondents, Peter Verniero, Attorney General of New Jersey, and Nancy Kaplen, Deputy Attorney General

This matter was initiated on August 1, 1997, when a group of students and parents of children attending school in the Plainfield school district (hereinafter "petitioners") filed a petition with the Commissioner, seeking to include Plainfield as a special needs district so as to entitle Plainfield's students to the remedies ordered in Abbott v. Burke, 149 N.J. 145 (1997) (Abbott IV). At the same time, Petitioners also filed an application for emergent relief, seeking such classification on an interim basis pending the Commissioner's final determination of the underlying matter.

On August 21, 1997, a Deputy Attorney General representing the State respondents filed a motion to dismiss the matter.

By letter decision dated September 5, 1997, the Commissioner denied petitioners' application for emergent relief and directed that the matter proceed to "further determination".

Although petitioners wrote to the Commissioner on October 10, 1997 and January 27, 1998, requesting that he decide the motion to dismiss, as of April 16, 1998, the Commissioner had taken no further action in the case. Consequently, on April 21, 1998, petitioners filed a motion with the State Board, seeking to compel the Commissioner to decide the motion to dismiss.

On April 28, 1998, the Commissioner issued his final decision in the case, dismissing the petition in its entirety.

On May 26, 1998, petitioners filed a notice of appeal from the Commissioner's decision, and on June 15, 1998, they filed their appeal brief, accompanied by a motion to supplement the record.

Given these circumstances, we find that petitioners' motion to compel the Commissioner to issue his decision is moot. Accordingly, the State Board of Education dismisses the motion.

Orlando Edreira abstained.

Sam Podietz did not participate in deliberations in this matter.

July 1, 1998

Date of mailing _____