

New Jersey Commissioner of Education
Order on Emergent Relief

Joseph M. Muniz,

Petitioner,

v.

Board of Education of the Hudson County Schools of
Technology, Hudson County,

Respondent.

The record of this emergent matter and the recommended Order of the Administrative Law Judge (ALJ) have been reviewed and considered.

Upon such review, the Commissioner concurs with the ALJ that petitioner has failed to demonstrate entitlement to emergent relief pursuant to the standards enunciated in *Crowe v. DeGioia*, 90 N.J. 126, 132-34 (1982) and codified at N.J.A.C. 6A:3-1.6.

Accordingly, the recommended Order denying petitioner's application for emergent relief is adopted for the reasons stated therein. This matter shall continue at the Office of Administrative Law with such proceedings as the parties and the ALJ deem necessary to bring it to closure.

IT IS SO ORDERED.



COMMISSIONER OF EDUCATION

Date of Decision: June 13, 2025
Date of Mailing: June 16, 2025



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING
EMERGENT RELIEF

OAL DKT. NO. EDU 09176-25

AGY REF NO. 154-5/25

JOSEPH M. MUNIZ,
Petitioner,

v.

**BOARD OF EDUCATION OF THE HUDSON
COUNTY SCHOOLS OF TECHNOLOGY,
HUDSON COUNTY,**
Respondent.

Stephen J. Edelstein, Esq., for petitioner (Weiner Law Group, attorneys)

Roshan Shah, Esq. and Chris Khatami, Esq., for respondent (Shah Law Group,
attorneys)

Record Closed: June 2, 2025

Decided: June 2, 2025

BEFORE THOMAS R. BETANCOURT, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner filed a motion for Emergent Relief with the Office of Controversies and Disputes in the New Jersey Department of Education (DOE). The contested matter was transferred to the Office of Administrative Law (OAL), pursuant to N.J.A.C. 1:6A-12.1, where it was filed on May 23, 2025, to be heard on an emergent basis.

Petitioner seeks, inter alia, reinstatement to his position of employment with the Respondent. Petitioner is currently suspended with pay.

Respondent filed a Notice of Motion to dismiss in lieu of an Answer.

Oral argument on the motion for emergent relief was heard on June 2, 2025.

FACTUAL BACKGROUND

Petitioner is employed as the Assistant Business Administrator and Board Secretary for the Respondent District. He has been employed by the District for twenty years.

On November 25, 2024, Petitioner was suspended with pay pursuant to a letter issued by then Superintendent Amy Lin-Rodriguez. Thereafter, petitioner received a Rice Notice that his employment would be discussed at a Board meeting on December 12, 2024. Superintendent Lin-Rodriguez was also suspended after she issued her letter of suspension, and prior to the December 12, 2024 Board meeting. That suspension was then approved by the Board at said meeting. Petitioner remains suspended with pay to date.

The basis for the suspension, pursuant to Superintendent Lin-Rodriguez' letter of November 25, 2024, was due to "your conduct today was unprofessional, insubordinate, profane, and threatening."

LEGAL ANALYSIS AND CONCLUSION

The threshold question in the instant matter is whether the District can place the petitioner on administrative leave, or otherwise suspend him.

N.J.S.A. 18A:6-8.3 states, “Any employee or officer of a board of education in this State who is suspended from his employment, office or position, other than by reason of indictment, pending any investigation, hearing or trial or any appeal therefrom, shall receive his full pay or salary during such period of suspension, except that in the event of charges against such employee or officer brought before the board of education or the Commissioner of Education pursuant to law, such suspension may be with or without pay or salary as provided in chapter 6 of which this section is a supplement.”

While there are no tenure charges pending, or even contemplated by the District, the above provides for suspension provided the petitioner receives his full remuneration under his contract. It is not disputed that he is receiving his salary during the suspension.

The New Jersey Supreme Court has set forth a four-prong test for determining whether an applicant is entitled to emergent relief. Crowe v. DeGioia, 90 N.J. 126, 132-34 (1982) (enumerating the factors later codified at N.J.A.C. 6A:14.2-7(s)1.

The four factors (“the Factors”), include:

1. The petitioner will suffer irreparable harm if the requested relief is not granted;
2. The legal right underlying petitioner's claim is settled;
3. The petitioner has a likelihood of prevailing on the merits of the underlying claim; and
4. When the equities and interests of the parties are balanced, the petitioner will suffer greater harm than the respondent will suffer if the requested relief is not granted.

The moving party bears the burden of proving each of the Crowe elements “clearly and convincingly.” Waste Mgmt of N.J. v. Union County Util. Auth., 399 N.J. Super. 508, 520 (App. Div. 2008).

Petitioner asserts that mere fact of the suspension causes irreparable harm. Petitioner does not dispute that he is receiving full pay and benefits. Certainly, there is no financial hardship imposed by his current status.

Petitioner submitted no affidavit to set forth facts that support the claim of irreparable harm. Rather, it is simply argued that his status alone causes such irreparable harm. Without more it is not possible for petitioner to meet the first prong of the Crowe test.

Petitioner cites Sancez v. Board of Education of the City of Camden, OAL Dkt. No. EDU 23-03; Agency Dkt. No. 403-12/02 (2003). That case is factually distinguishable for the present matter. In Sanchez the petitioner was demoted, not suspended. She was assigned as an Acting Vice Principal from her Principal position. In the instant matter petitioner was suspended for cause. See Lin-Rodriguez letter of suspension.

Other than cite Sanchez, supra, and claim irreparable harm without further evidence of the same does not satisfy the first prong of the Crowe test.

As the burden is upon petitioners to prove each element of Crowe, and I have concluded that petitioners are unable to satisfy factor one, no further analysis is required.

Based upon the foregoing, I **CONCLUDE** that petitioner’s request for emergent relief be **DENIED**.

ORDER

It is hereby **ORDERED** that petitioner's request for emergent relief is **DENIED**.

This Order on application for emergency relief may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who/which by law is authorized to make a final decision in this matter. The final decision shall be issued without undue delay but no later than forty-five days following the entry of this order. If the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** does not adopt, modify or reject this order within forty-five days, this recommended order shall become a final decision on the issue of emergent relief in accordance with N.J.S.A. 52:14B-10.



June 2, 2025

DATE

THOMAS R. BETANCOURT, ALJ

Date Received at Agency

Date Mailed to Parties:

List of Moving Papers

For Petitioner:

Verified Petition of Appeal

Notice of Motion for Immediate Relief

Letter brief

For Respondent:

Notice of Motion to Dismiss

Letter brief

Certification of Jonathan Busch, Esq.

List of Exhibits:

Petitioner:

P-1 Letter dated January 15, 2025 from Jonathan Busch, Esq

Respondent:

None