

78-25E  
OAL Dkt. No. EDU 01143-25  
Agency Dkt. No. 13-1/25

**New Jersey Commissioner of Education**  
**Order on Emergent Relief**

J.V., on behalf of minor child, G.I.,

Petitioner,

v.

Board of Education of the Township of Jackson,  
Ocean 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: March 7, 2025  
Date of Mailing: March 7, 2025



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**ORDER DENYING**

**EMERGENCY RELIEF**

OAL DKT. NO. EDU 01143-25

AGENCY DKT. NO. 13-1/25

**J.V. ON BEHALF OF MINOR CHILD, G.I.,**

Petitioner,

v.

**BOARD OF EDUCATION OF THE  
TOWNSHIP OF JACKSON, OCEAN CITY**

Respondent.

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**Daniel R. Roberts, Esq.**, appearing for petitioner (Kenney, Gross, Kovats & Parton,  
attorneys)

**Marc H. Zitomer, Esq.**, appearing for respondent (Schenck, Price, Smith and King,  
LLP, attorneys)

BEFORE **KIM C. BELIN**, ALJ:

**STATEMENT OF THE CASE**

By request for emergent relief, petitioner J.V. challenges the disciplinary decision of the respondent, the Jackson Township Board of Education (Board or respondent), to transfer G.I. from one high school to another high school for physically assaulting another student. Is petitioner entitled to emergent relief and immediate return to her former high

school? No, N.J.A.C. 6A:3-1.6(b) requires proof of irreparable harm, which is not present in this case.

### **PROCEDURAL HISTORY**

On January 13, 2025, the petitioner filed a petition of appeal challenging respondent's determination that G.I. engaged in behavior warranting removal from the high school. The director of the Office of Controversies and Disputes within the Department of Education transmitted the petition and motion for emergent relief to the Office of Administrative Law (OAL), where it was filed on January 16, 2025. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13; N.J.A.C. 1:1-8.2. Oral argument was held and the record on the motion for emergent relief closed on January 31, 2025.

### **FACTUAL DISCUSSION AND FINDINGS**

The following **FACTS** are undisputed, and I therefore **FIND**:

For the 2024–25 school year, G.I. was a tenth-grade student at Jackson Liberty High School. She was a general education student. On October 11, 2024, G.I. initiated a fight against another student with whom she had a longstanding acrimonious relationship. G.I. walked up to the other female student, bumped into the other student, and began hitting the other student repeatedly in the face and head. The altercation continued until a teacher intervened. G.I. was suspended for physically assaulting another student during the school day. (Certification of Nicole Pormilli, Exhibit C.)

J.V. was notified of the charges against G.I. and the Board hearing by letter dated October 14, 2024 (Exhibit B, Petitioner's Brief). The hearing to consider G.I.'s long-term suspension or expulsion was scheduled for October 16, 2024, but delayed until November 11, 2024, at petitioner's request. By letter dated November 12, 2024, J.V. was provided with the Board's decision to transfer G.I. from Jackson Liberty High School (JLHS) to Jackson Memorial High School (JMHS) "until further notice." (Exhibit A, Petitioner's Brief.) G.I.'s prior disciplinary record consisted of a detention, but no other short or long-term suspensions. (Petitioner's Verified Petition.)

## **LEGAL ANALYSIS AND CONCLUSION**

### ***Emergent Relief***

The regulations governing controversies and disputes before the Commissioner of Education provide that “[w]here the subject matter of the controversy is a particular course of action by a district board of education . . . , the petitioner may include with the petition of appeal, a separate motion for emergent relief or a stay of that action pending the Commissioner’s final decision in the contested case.” N.J.A.C. 6A:3-1.6(a). The regulations further provide that the Commissioner may “[t]ransmit the motion to the OAL for immediate hearing on the motion.” N.J.A.C. 6A:3-1.6(c)(3).

At such a hearing, a petitioner must show that the following four standards are met:

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.

[N.J.A.C. 6A:3-1.6(b) (citing Crowe v. DeGioia, 90 N.J. 126 (1982)).]

Thus, the purpose of emergent relief is “to ‘prevent some threatening, irreparable mischief, which should be averted until opportunity is afforded for a full and deliberate investigation of the case.’” Crowe, 90 N.J. at 132 (citing Thompson ex rel. Bd. of Chosen Freeholders v. Paterson, 9 N.J. Eq. 624, 625 (Sup. Ct. 1854)). The petitioner has the burden of establishing all the above requirements in order to warrant relief in their favor and must prove each of these Crowe elements “clearly and convincingly.” Waste Mgmt.

of N.J. v. Union Cnty. Utils. Auth., 399 N.J. Super. 508, 520 (App. Div. 2008); D.I. & S.I. ex rel. T.I. v. Monroe Twp. Bd. of Educ., 2017 N.J. AGEN LEXIS 814 at \*7.

### ***Irreparable Harm***

Here, J.V. asserts that her daughter, G.I., is suffering irreparable harm because she was removed from JLHS to JMHS. Specifically, there is a negative impact on her continuity of instruction and a psychological impact of being moved to another school during the middle of the school year that includes loss of relationships. J.V. contends that G.I. suffers from high anxiety in the new environment; however, there was no evidence to substantiate this claim, such as a psychologist, physician, or guidance counselor report.

In an emergent-relief case in which the student was expelled from the high school for violating the student code of conduct, the administrative law judge (ALJ) stated: “[i]rreparable harm is also rooted in the quality of the education” received by the student. K.C. & S.C. ex rel. K.C. v. Board of Educ. of Englewood Cliffs, 2011 N.J. AGEN LEXIS 100 at \*7. The ALJ concluded that the petitioners had satisfied the first prong of the Crowe test because “the education provided at [the petitioner’s specialized high school was] distinctly different, by design, intent and expectation,” from that offered at the local high school. Id. at \*8.

In the current controversy, transferring to another school may impact the continuity of instruction, however, there is no showing that the education provided at JMHS is distinctly different from that offered at JLHS. According to counsel for J.V., both schools are similar in course offerings and teacher support. Counsel could not identify what educational loss G.I. had experienced. There was no evidence produced that JLHS offered courses that were not available at JMHS. Both schools offered teacher support, including guidance counselors. The only difference offered by counsel was that the teachers and guidance counselors were different; G.I. had not developed the same rapport with the new staff as she had at JLHS.

Without question, established friendships and relationships are important in the life of a high school student, and it may well be that as the facts in this matter are developed J.V. may show that G.I.'s needs are best met by attending JLHS. However, the facts presented to date do not definitively show that such is the case. I **CONCLUDE** that the petitioner has not satisfied the first prong of the Crowe test. The petitioner has not shown by clear and convincing evidence that irreparable harm will result if G.I. is not permitted to return immediately to JLHS.

Because J.V. has not satisfied the first prong, discussion of the other prongs is unwarranted.

### ***Conclusion***

To justify the granting of emergent relief, all four of the Crowe standards as codified in N.J.A.C. 6A:3-1.6 must be met and, for the reasons detailed above, the first prong has not been met in this matter. I **CONCLUDE**, therefore, that the petitioner has not met these required standards, and the petition for emergent relief therefore must be denied.

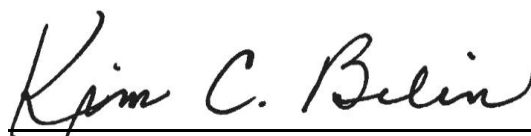
### **ORDER**

I **ORDER** that the petitioner's motion for emergent relief is **DENIED** and the case will proceed with the underlying due process petition.

This order on application for emergency relief may be adopted, modified or rejected by **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who 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 **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.

February 3, 2025

DATE

A handwritten signature in black ink, reading "Kim C. Belin", written over a horizontal line.

KIM C. BELIN, ALJ

KCB/am

C.C.: Clerk

## **APPENDIX**

### **Exhibits**

#### **For petitioner:**

Letter Brief dated January 13, 2025, with exhibits in support of petitioner's application for emergent relief

#### **For respondent:**

Letter Brief dated January 27, 2025, with Certification of Nicole Pormilli in opposition to petitioner's application for emergent relief