

90-25E
OAL Dkt. No. EDU 03040-25
Agency Dkt. No. 38-2/25

New Jersey Commissioner of Education
Order on Emergent Relief

F.P., on behalf of minor child, M.P.,

Petitioner,

v.

Board of Trustees of the North Star Academy
Washington Park High School, Essex 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 17, 2025
Date of Mailing: March 17, 2025



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING

EMERGENT RELIEF

OAL DKT. NO. EDU 03040-24

AGENCY REF. NO. 38-2/25

F.P. ON BEHALF OF M.P.,

Petitioner,

vs.

**BOARD OF TRUSTEES OF THE
NORTH STAR ACADEMY WASHINGTON
PARK HIGH SCHOOL,**

Respondent.

F.P., petitioner (no appearance)

Marc M. Yenicag, Esq., for respondent (Pashman Stein Walder Hayden, P.C.,
attorneys)

BEFORE **THOMAS R. BETANCOURT**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner filed a petition and a motion seeking emergent relief with the Department of Education, Office of Controversies and Disputes on February 13, 2025.

The Department of Education, Office of Controversies and Disputes, transmitted the Motion for Emergent Relief to the Office of Administrative Law (OAL), where it was filed on February 13, 2025.

The undersigned scheduled a telephone conference for Tuesday, February 18, 2025, at 3:00 p.m. Counsel for respondent called into the conference. Petitioner did not, nor did petitioner provide an explanation as to why he did not. Notice of said telephone conference was sent to the email provided by petitioner in his petition.

Oral argument was for February 20, 2025, at 1:30 p.m. Petitioner did not appear. Counsel for respondent did appear. Notices were provided to petitioner.

LEGAL ANALYSIS AND CONCLUSION

In accordance with N.J.A.C. 1:1-12.6, emergency relief may be granted “where authorized by law and where irreparable harm will result without an expedited decision granting or prohibiting some action or relief connected with a contested case...” My determination in this matter is further governed by the standard for emergent relief set forth by our Supreme Court in Crowe v. DeGioia, 90 N.J. 126 (1982).

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:3-1.6(b)).

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.

[N.J.A.C. 6A:3-1.6(b).]

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 has failed to appear for oral argument.

Accordingly, petitioner’s motion for emergent relief should be **DENIED**.

ORDER

It is hereby **ORDERED** that petitioner’s motion 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.



February 21, 2025

DATE

db

THOMAS R. BETANCOURT, ALJ