

New Jersey Commissioner of Education
Order on Emergent Relief

K.A., on behalf of minor child, P.A.,

Petitioner,

v.

South Orange-Maplewood Board of Education,
Essex County,

Respondent.

The record of this emergent matter, the sound recording of the hearing held at the Office of Administrative Law (OAL), and the recommended Order of the Administrative Law Judge (ALJ) have been reviewed and considered.

Upon 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. This matter shall continue at the OAL 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: August 26, 2026
Date of Mailing: August 26, 2026



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING
EMERGENCY RELIEF

OAL DKT. NO. EDU 10920-26

AGENCY DKT NO. 278-06-26

K.A. ON BEHALF OF P.U.,

Petitioners,

v.

SOUTH ORANGE-MAPLEWOOD,

BOARD OF EDUCATION,

ESSEX COUNTY,

Respondents.

K.A., petitioner, pro se

Patrick F. Carrigg, Esq., for respondent (Lenox, Socey, Formidoni, Giordano,
Lang, Carrigg, & Casey, LLC, attorneys)

Record Closed: July 16, 2026

Decided: July 17, 2026

BEFORE **PATRICE E. HOBBS**, ALJ:

STATEMENT OF THE CASE

Petitioner is seeking emergent relief to prevent the South Orange-Maplewood Board of Education from transmitting confidential student data, to compel compliance with

the National School Lunch Program, to investigate the improper practices of the security staff at Columbia High School, and for remote academic access to the summer credit recovery program. Is petitioner entitled to emergency relief? No. Petitioner must prevail on all four prongs of N.J.A.C. 1:1-12.6 to obtain emergent relief. Crowe v. DeGioia, 90 N.J. 126 (1982).

PROCEDURAL HISTORY

On July 1, 2026, petitioner filed a request for emergent relief to prevent the South Orange-Maplewood Board of Education (the District) from transmitting confidential student data, to compel compliance with the National School Lunch Program, to conduct an investigation of improper practices of the security staff at the Columbia High School and to provide remote academic access to the summer credit recovery program. On July 7, 2026, the petition was filed with the Office of Administrative Law (OAL) for a hearing as a contested case under N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. On July 12, 2026, I held a prehearing conference to discuss the issues to be presented at the scheduled hearing. On July 13, 2026, the District filed its answer to the petition, and petitioner submitted her exhibits. On July 15, 2026, I held a hearing. Petitioner requested to introduce one additional email, and respondent requested an additional day to research the email and respond. I held the record open, and on July 16, 2026, respondent submitted their response to the petitioner's email, and I closed the record.

FINDINGS OF FACT

Based upon the testimony the parties provided and my assessment of their credibility, together with the documents the parties submitted and my assessment of their sufficiency, I **FIND** the following **FACTS**:

P.A. is a rising junior at Columbia High School who is enrolled in the summer credit recovery program. P.A. is in the program for five and a half hours every day. P.A. was deficient in seven classes. Students enrolled in the summer credit recovery program are provided with individually wrapped snacks and bottled water. Students are also given a fifteen-minute break while at school. The school cafeteria is not open.

FERPA

Emails were exchanged between the petitioner and district personnel concerning the P.A.'s registration for the summer credit recovery program. Petitioner's emails do not contain any headers, which would include the recipients, date and time. The District's copies of these emails contain the names and email addresses of the sender and recipients. The District personnel were Superintendent Jason Bing; Principal Frank Sanchez; Assistant Superintendent Kevin Gilbert; Dr. Kerri-Waibel, the McKinney-Vento liaison; and Adaliana Cuadrado, confidential secretary to Bing. (R-A; R-B; R-C; R-D.) The emails confirm that the District offered P.A. options for credit recovery.

National School Lunch Program

Kerri Waibel is the director of data research and planning for the District and also the District's McKinney-Vento liaison. She stated that fewer than fifty percent of the District's enrolled students qualify for free or reduced-price meals. The District is not a sponsor or site for the federal Summer Food Service Program (SFSP). (R-E.)

She explained that the District is not mandated to provide meals during the summer credit recovery program. McKinney-Vento services were offered to petitioner as well as additional nutritional and financial support during the summer credit recovery program. (R-A.)

Summer Credit Recovery Program

The summer credit recovery program is not offered remotely to any student and is only available in the summer. (R-D.) Credit recovery is available during the school year as well as in the summer. Seniors can also participate in credit recovery after graduation. The District has programs that allow for an extra year after senior year to obtain all the credits they need to transfer to a university. During the last two weeks of school, the District has a virtual option for credit recovery.

K.A. received an email (P-I) that confirmed P.A. was enrolled in virtual school. K.A. asserts that this virtual school was for the summer credit recovery program. The email for the NJ Virtual School request was issued to all high school students and offered an online course in personal finance. (R-E; R-F.) It was issued for a specific class and only for the summer. This class is not a part of the summer credit recovery program. P.A. remains registered for this course, and the course is conducted online.

Privacy Rights

There are 2,000 students at Columbia High School. All students are required to wear their identification on a lanyard for easy identification. If a student is not wearing a lanyard, school personnel are permitted to take a photograph of the student, for identification and security purposes only, to ensure that only authorized persons are in the building. A security person employed by the District did take a photograph of P.A. because he did not present identification upon request. The photograph was taken to assist the administration in identifying the student. (R-C.)

CONCLUSIONS OF LAW

Emergent relief may be granted “where authorized by law and where irreparable harm will result without an expedited decision granting or providing some action or relief connected with a contested case. . .” N.J.A.C. § 1:1-12.6(a). N.J.A.C. 6A:3-1.6(b) codifies the standard for injunctive relief set forth in Crowe v. DeGioia, 90 N.J. 126 (1982), which states that (i) the petitioner will suffer irreparable harm if the requested relief is not granted; (ii) the legal right underlying the petitioner’s claim is settled; (iii) the petitioner has a likelihood of prevailing on the merits of the underlying claim; and (iv) 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. See also Crowe v. DeGioia, 90 N.J. 126 (1982). The applicant shoulders the burden of satisfying all four prongs of this test by clear and convincing evidence. Crowe, 90 N.J. at 132–34.

Irreparable harm has been defined as harm that cannot be redressed by monetary damages. Crowe, 90 N.J. at 132–33. The petitioner must make a “clear showing of

immediate irreparable injury” or a “presently existing actual threat.” Cont’l. Grp., Inc. v. Amoco Chems. Corp., 614 F. 2d 351, 359 (D.N.J. 1980). The second consideration is whether the legal right underlying the petitioner’s claim is settled, N.J.A.C. 6A:3-1.6(b)(2), and then, third, the petitioner must make a preliminary showing of a reasonable probability of success on the merits. Crowe, 90 N.J. at 133. The final prong of Crowe is whether the equities and interests of the parties weigh in favor of granting the requested relief to the petitioners.

FERPA

Petitioner argues that the District has been transmitting confidential student data in violation of the Federal Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232, 34 CFR Part 9. FERPA applies to all schools and protects a student’s education records from being disclosed to third parties without their consent. Id. Petitioner argues that the emails transmitted by the District were violations of FERPA because they disseminated private information to people who were not authorized to receive that information. The petitioner’s copies of these emails (P-B; P-C; P-D; P-E; P-F; P-G) do not have any recipients’ email addresses, dates or subject lines and appear to be responses directly to petitioner. The emails relate only to P.A. and do not contain any information on any other student. The District’s copies of these emails (R-A; R-B; R-C; R-D) are more complete, containing the names and email addresses of all recipients, as well as the dates and times of transmittal. On the District’s copies, all recipients of the emails are employed by the District and considered to be school officials under FERPA. Petitioner argues that some of the recipients should not have received the email. None of the emails presented included information for any of the other students, and petitioner did not present any other evidence to substantiate her claims that the District violated FERPA. Based on the emails provided, I **CONCLUDE** that those emails are not a violation of FERPA.

National School Lunch Program

Petitioner also argues that the District is in non-compliance with the National School Lunch Program and Summer Food Service Program (SFSP) under N.J.S.A. 18A:33-24. Every school district, where more than fifty percent of the enrolled students

are eligible for the free or reduced-price lunch, can become a sponsor or site for the SFSP. N.J.S.A. 18A:33-24(1)(a). The regulations do not state that the District must provide lunch or cafeteria services. The regulations only provide that if the District meets the criteria, the District can become a distribution site for the free or reduced-price lunch. The District has certified that fewer than fifty percent of its enrolled students qualify for the free or reduced-price lunch. Therefore, the regulation is not applicable to the District. Even if the regulations applied to the District, they do not mandate that the District **must** provide lunch. Rather, the regulations state that the District **can** apply to become a sponsor or a site for the SFSP. I **CONCLUDE** that N.J.S.A. 18A: 33-24 is not applicable to the District because there are fewer than fifty percent of their enrolled students who qualify for free or reduced-price lunch.

Petitioner argues that the District must provide meal services because students are at school for five and a half hours. Under N.J.S.A. 18A:33-4, the District must make school lunch available to all students enrolled during the school year. The summer credit recovery program is not during the school year, and therefore, the District is not mandated to offer school lunch for this program. The District does provide individually wrapped snacks, water and a fifteen-minute break for students. I **CONCLUDE** that meal service is not required during the summer credit recovery program.

School Safety/Privacy

Petitioner alleges that the security staff employs improper practices at Columbia High School in violation of N.J.A.C. 6A:16. Petitioner states that a security officer took a photograph of her son while he was in the restroom at the high school. The District argues that the security personnel took the photograph of the student because the student did not present identification and was alleged to be smoking in the restroom. The District also argues that security personnel are permitted to take a photograph, solely for identification purposes, of any student who does not have their student identification.

N.J.A.C. 6A:16 et seq. governs programs to support program development at schools. Subchapter 5 addresses school safety and security plans and requires districts to develop and implement protocols for the safety and security of the school population.

These safety protocols relate to potential emergencies within the school and are inapplicable to the issue at hand. Here, there was one incident of a photograph taken by a security person, and the District explained the purpose behind the photograph. Petitioner has not presented any other evidence of photographs taken by security personnel in the restrooms. Based on the evidence presented, I **CONCLUDE** that the petitioner has failed to prove that the single photograph taken by security personnel is an improper systemic practice or a violation of privacy and that this single incident has not caused any irreparable harm.

Home Instruction

Petitioner argues that the District must provide remote academic access to the summer credit recovery program and relies on N.J.A.C.6A:16-10.1. The District must provide home instruction if there is a temporary or chronic health condition, if the parent presents documentary evidence from a physician, and the school physician has verified the need for home instruction. N.J.A.C. 6A:16-10.1 (a)(1). There are no other regulations that provide for home instruction that are applicable to the summer credit recovery program. Petitioner has not provided any physician's note requesting home instruction.

Petitioner has failed to provide any proof that P.A. has been excluded from the summer credit recovery program. The District argues that home instruction is not available for the summer credit recovery program and that even if it were available, petitioner has not provided a doctor's note requesting home instruction under the applicable regulations. Most importantly, the District has demonstrated that P.A. has been encouraged to attend, that they have offered nutritional and financial support to encourage his attendance, and that they have attempted to discuss the issues in greater detail with petitioner, and she has refused. The District cannot compel his attendance; they can only offer their encouragement that he attend and provide additional meal support while in attendance.

Petitioner argues that she has voluntarily withheld P.A. from the summer credit recovery program because he was approved for virtual school. The gravamen of petitioner's argument is that P.A. will not have sufficient credits in his classes if he does

not receive these credits through the summer credit recovery program, and she does not want him to attend school without being provided meal service as required by SFSP. The District argues that credit recovery is available during the school year as well as in the summer. Seniors can also participate in credit recovery after graduation. The District has programs that allow for an extra year after senior year to obtain all the credits they need to transfer to a university.

Petitioner relies on the email from Petroccia that the District confirmed P.A. was approved for virtual instruction. The District argues that this email was sent to all students who requested enrollment in the online personal finance class. It is limited to one class and is not a part of the summer credit recovery program.

P.A. has two remaining years at school, and during this time, there are multiple options available to him for credit recovery. The District is not obligated to provide meal service. They are currently providing individually wrapped snacks and have offered additional nutritional services for P.A. Summer credit recovery is not the only way for P.A. to obtain the credits he needs, and there is no immediate, irreparable injury to P.A. that must be cured by emergent relief. Based on the evidence and testimony presented, petitioner has not shown that there is irreparable harm, a well-settled legal right, or a probability of success on the merits. Further, the balance of equities does not weigh in favor of the petitioner.

Petitioner has not met all four conditions set forth in Crowe, as codified in N.J.A.C. 6A:3-1.6(b). Therefore, I **CONCLUDE** that petitioner is not entitled to emergency relief as requested, and the petitioner's request for emergency relief is **DENIED**.

ORDER

Based on the above discussion and conclusions of law, the petitioner has not met the burden of establishing the right to emergent relief, as she has failed to prevail on all four factors of Crowe, and I **ORDER** that the petition for emergency relief is **DENIED**. The case will now be scheduled for plenary hearing on the underlying due process petition under a separate prehearing order.

This Order on application for emergency relief may be adopted, modified or rejected by the **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 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.

July 17, 2026

DATE



PATRICE E. HOBBS, ALJ

Date Received at Agency:

July 17, 2026

Date Mailed to Parties:

July 17, 2026

APPENDIX

Witnesses

For petitioner:

K.A., petitioner

For respondent:

None

Exhibits

For petitioner:

- P-A Original Administrative Complaint and Chronological Timeline, dated 6/30/26
- P-B Initial Formal Grievance to South Orange-Maplewood School District, dated 6/27/26
- P-C Supplemental Grievance to South Orange-Maplewood School District, dated 6/28/26
- P-D District Communications Regarding Meal Access, Summer Program, and Related Concerns, dated 6/29/26–7/1/26
- P-E McKinney-Vento Correspondence Regarding Summer Meal Assistance
- P-F Summer School Remote Coursework Correspondence, dated June 30, 2026
- P-G Attendance Reporting and Restroom Incident Correspondence, dated 5/5/26–5/8/26
- P-H New Jersey Department of Education and Office of Administrative Law correspondence, dated 7/1/26–7/8/26
- P-I Email from Elizabeth Petroccia approving Virtual School, dated 6/16/26

For respondent:

- R-A March 22–23, 2026, email chain between petitioner and the District
- R-B May 5, 2026, email chain between petitioner and the District
- R-C May 7–8, 2026, email chain between petitioner and the District
- R-D June 30, 2026, email chain between petitioner and the District
- R-E Letter from Principal Sanchez re: NJ Virtual Online Finance Course
- R-F June 29, 2026, Principal Sanchez email responding to Petitioner’s concerns
- R-G Columbia High School Flyer for NJ Virtual School Online Finance