



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

**FINAL DECISION ON**  
**EMERGENT RELIEF**

OAL DKT. NO. EDS 10218-19  
AGENCY DKT. NO. 2020 30448

**P.R. ON BEHALF OF P.R.,**

Petitioner,

v.

**WAYNE TOWNSHIP BOARD OF EDUCATION,**

Respondents.

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**P.R.**, pro se

**Alyssa K Weinstein**, Esq., for respondent (Scarinci & Hollenbeck, attorneys)

BEFORE **KIMBERLY A. MOSS**, ALJ:

Petitioner, P.R. on behalf of his minor child, P.R., brings this action seeking an order to compel Wayne Township Board of Education (Wayne or District) to provide afternoon transportation for P.R. from First Children's School Services, in Fanwood, NJ to his home from August 12, 2019 through August 23, 2019.

On July 29, 2019, the Office of Special Education Programs transmitted the matter to the Office of Administrative Law (OAL) where it was filed. A telephone status conference was conducted on July 31, 2019 and oral arguments were held on August 2, 2019, on which date the record closed.

## **FACTUAL DISCUSSION**

After carefully considering the documentary evidence presented, and having had the opportunity to hear oral arguments, I **FIND** the following **FACTS**:

P.R. is a twelve-year-old child who resides in the Rutherford, New Jersey. He is eligible to receive special education and related services under the classification of autistic. P.R. was placed out of district at the First Children's School Service in Fanwood, New Jersey. P.R. attends an afterschool program at North Jersey Behavioral Health in Caldwell, New Jersey. The parties amended the IEP on May 2, 2019, to include the following, "As per parent request the Florida New York District will provide services in the PM after school for P.R. in another location and will provide their own transportation. The District would provide the morning transportation only and establishing that Florida New York District is providing afternoon transportation only." Petitioner signed this amendment to the IEP on May 2, 2019. The North Jersey Behavioral Health program is closed from August 12, 2019 to August 23, 2019. Petitioner requests that the District provide P.R. with afternoon transportation home from August 12, 2019 through August 23, 2019

## **LEGAL ANALYSIS AND CONCLUSION**

The standards for the granting of emergent relief are set forth in N.J.A.C. 6A:3-1.6(b). Emergent relief may be granted if the judge determines from the proofs that:

1. The petitioner will suffer irreparable harm if the requested relief is not granted;
2. The legal right underlying the 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.

After considering the documentation submitted, hearing the arguments of petitioner and respondent, I **CONCLUDE** that petitioner has not met the requirement of N.J.A.C. 6A:3-1.6(b). Petitioner has not demonstrated that P.R. will suffer irreparable harm. Petitioner did not allege any irreparable harm that P.R. would suffer if he was not provided afternoon transportation by the District from First Children's Service School to his home.

Petitioners provided no argument that they have a likelihood of prevailing on the merits, the legal right underlying their claim is settled or 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. Petitioner specifically requested in the May 2, 2019 IEP amendment that the District only provide morning transportation for P.R. to First Children's Service School.

Therefore, I **CONCLUDE** that petitioner has not met the requirement of N.J.A.C. 6A:3-1.6(b).

Accordingly, it is **ORDERED** that the petition for emergent relief be and is hereby **DENIED**.

This decision on application for emergency relief shall remain in effect until the issuance of the decision on the merits in this matter. The hearing having been requested by the parents, this matter is hereby returned to the Department of Education for a local resolution session, pursuant to 20 U.S.C.A. § 1415 (f)(1)(B)(i). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education Programs.

August 2, 2019



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DATE

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**KIMBERLY A. MOSS, ALJ**

Date Mailed to Parties:

August 2, 2019

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