



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

EMERGENT RELIEF

OAL DKT. NO. EDS 7964-22

AGENCY DKT. 2023-34949

P.N. ON BEHALF OF J.G.,

Petitioner,

v.

TEAM ACADEMY CHARTER SCHOOL

BOARD OF EDUCATION,

Respondent.

Vaness Roper, Advocate

Thomas Johnson, Esq. for respondent (Johnson Law Firm LLC, attorneys)

Record Closed: September 28, 2022

Decided: September 29, 2022

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

Petitioner P.N. on behalf of her minor child J.G. filed a motion for emergent relief requesting J.G. receive a paraprofessional or one to one aide as required by the IEP.

On September 14, 2022, the Office of Special Education Programs transmitted the matter to the Office of Administrative Law (OAL). Oral arguments was initially scheduled for September 19, 2022. A conference was held on September 16, 2022, at which time both parties stated that they were unavailable for oral argument on

September 19, 2022. The matter was rescheduled and oral argument was held on September 28, 2022, 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**:

J.G. is a student at TEAM Academy Charter School. (TEAM) He is in the twelfth grade. He receives special education services under the classification of other health impaired. His IEP calls for him to receive shared aide support for one hundred minutes per day five days per week. Petitioner requested that the school leadership suspend J.G.'s aide support at the start of the 2022-2023 school year. This was done without the IEP teams' authorization. The aide support was reinstated on September 19, 2022. He receives aide support in the subjects of college and career readiness, U.S. history and English. Petitioner in its motion stated that J.N. was not receiving the aide support.

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.

In this case, after hearing the arguments of petitioner and respondent and considering the documentation submitted, I **CONCLUDE** that petitioner has not met the requirement of N.J.A.C. 6A:3-1.6(b). Petitioner has not demonstrated that J.G. will suffer irreparable harm. J.G. has the aides that are specified in the IEP of March 2022.

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, that J.G. will suffer greater harm than the respondent will suffer, if the requested relief is not granted because J.G. is receiving the aide support as required by the IEP of March 2022.

In this case, after hearing the arguments of petitioner and respondent and considering the documentation submitted, 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 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.

September 29, 2022



DATE

KIMBERLY A. MOSS, ALJ

Date Received at Agency

September 29, 2022_____

Date Mailed to Parties:

September 29, 2022_____

ljb