



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

**FINAL DECISION**

**ON EMERGENT RELIEF**

OAL DKT. NO. EDS 11552-24

AGENCY DKT.NO. 2025 38066

**ROXBURY TOWNSHIP BOARD OF EDUCATION.,**

Petitioner,

v.

**S.R. ON BEHALF OF J.M.,**

Respondent.

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**Nathanya G. Simon**, Esq. for petitioners (Scarinci Hollenbeck).

**S.R.**, respondent appearing pro se

Record Closed: August 27, 2024,

Decided: August 27, 2024

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

**STATEMENT OF THE CASE**

The Roxbury Township Board of Education (District) brings this motion for emergent relief in the form of temporary home instruction pending out of district placement and full cooperation from the respondent in identifying and obtaining acceptance into an out of district placement.

### **PROCEDURAL HISTORY**

On August 21, 2024, the Office of Special Education Programs transmitted this matter to the Office of Administrative Law (OAL) for emergent disposition. Oral arguments were held on August 27, 2024

### **FACTUAL DISCUSSION**

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

J.M. was in the eleventh grade during the 2023-2024 school year. He is eligible for special education and related services under the category of other health impaired (OHI). He is diagnosed with Attention Deficit Hyperactivity Disorder, combined type (ADHA) and Oppositional Defiant Disorder (ODD). His behavioral difficulties include impulsivity, inattention, hyperactivity, poor peer relations, oppositional defiance, conduct disorder and aggression. These behaviors affect his academic performance. There has been a steady decline in his grades from ninth grade to eleventh grade. In ninth grade the lowest grade he received was a seventy -three. In eleventh grade, he received four incompletes and low grades of thirty-one in French and forty-five in Geometry two. During the 2022-2023 and 2023 -2024 school years J.M. was involved in over one hundred incidents at school, some of which involved disrespect to staff, leaving the school building without permission, substance abuse, threats and physical altercations.

During the beginning of the 2023-2024 school year J.M had the following incidents: 9/5/23 misuse of hall pass, he received an administrative warning, 9/19/24 marijuana he received an in-school suspension and 1 day Saturday detention, 9/19/24 threat simple, he received a 2 day out of school suspension, 11/22/23 disrespectful to staff he received an administrative warning, 12/22/23 leaving the school without permission ,1/3/24 physical altercation and simple threat he received a 1 day out of school suspension, 1/8/24 disrespectful to staff and used profanity towards the teachers and administration he received a 1 day out of school suspension, 1/9/24 vulgar

language toward staff member and continued willful violation of school rules and regulations he received a 3 day out of school suspension.

A risk assessment of J.M. was done by the Center for Evaluation and Counseling, Inc on January 25, 2024, which recommended J.M. participate in an Intensive Outpatient Program (IOP) for substance abuse and attend individual outpatient therapy to develop healthy coping skills, social skills, frustration tolerance and anger management. He will need a re-entry plan, and his behavior plan should include the continuation of an escort. J.M. admitted to smoking marijuana daily.

On April 24, 2024, J.M. was attending a special class for emotional regulation impairment called the Summit class at Roxbury High School. The Summit class provides a highly therapeutic and structured behavior management system for students whose behaviors, social and/or emotional difficulties substantially impede their learning and inclusion in the mainstream classroom. The classrooms maintain a ratio of at least one staff member to every five students. J.M. was also receiving counseling. However, was not able to be academically or behaviorally successful. An IEP was developed at this time where it was agreed that an out-of-district placement would be sought for the 2024-2025 school year.

On April 26, 2024, J.M. did not comply with the directions of faculty and staff. He was verbally abusive to multiple staff members and used vulgar language. J.M was placed in the principal's conference room where he became irate. He flipped over furniture and ripped a picture off the wall. He received a 4 day out of school suspension. On May 28, 2024, J.M. stole property from the school. He received 1 day in-school suspension. On May 30, 2024, J.M. made multiple threats to staff members. He told staff members "your throat should be slit", "You should be shot twenty times and "You should burn alive in a fire." He was given a 3 day out of school suspension.

A manifestation determination meeting and IEP meeting was held on June 5, 2024. The manifestation determination form states that J.M.'s behaviors continue to escalate despite the supports of the Summit program and his individual behavior

intervention plan. It was determined that J.M.'s behaviors were a manifestation of his disabilities. The June 5, 2024, IEP placement for J.M. was home instruction for the remainder of the 2023-2024 school year while finding an out of district placement. Respondent agreed to send J.M.'s records to various out of district placement. However, she subsequently ceased to cooperate with the District.

Respondent submitted a letter from St Clair's Behavioral Health dated March 8, 2024, stating that J.M. can return to school and hospitalization was not an option. Respondent also submitted a letter from the Center for Family Services dated August 19, 2024, stating that J.M. has been in therapy since the beginning of April 2024. The letter states "They are optimistic that with continued therapy and medication management through Center for Family Services as well as support from school administration, J.M. will gain the tools he needs to thrive in the school environment. Respondent provided one page of five of a psychiatric evaluation from the Center for Family Services dated June 12, 2024. It did not contain any conclusions or recommendations. At one point, J.M. told his counselor that he was surprised that the school did not get shot up.

J.M. cannot receive a free and appropriate public education in the least restrictive environment in the District.

### **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;
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.

The first criteria is irreparable harm. J.M. was in the Summit class at Roxbury High School which provides a highly therapeutic and structured behavior management system for students whose behaviors, social and/or emotional difficulties substantially impede their learning and inclusion in the mainstream classroom. The classrooms maintain a ratio of at least one staff member to every five students and had individual counseling after the risk assessment, yet behaviors continued. He was threatening violent actions against the teachers. His grades have fallen substantially since his ninth grade year. J.M will suffer irreparable harm if he is continued at Roxbury High School. He needs to be in a school that can adequately address his behaviors.

The right underlying the District's claim is settled, there is a likelihood of petitioner prevailing on the merits. J.M.'s behaviors continued which included threatening faculty and staff. When balancing the interests of the parties, the District will suffer greater harm if the relief is not granted. In this matter, the District cannot provide a free and appropriate education to J.M. at Roxbury high school.

I **CONCLUDE** that the District has met the requirements of N.J.A.C. 6A:3-1.5(b).

### **ORDER**

Based on the foregoing, it is **ORDERED** that the petition for emergent relief in this matter be and is hereby **GRANTED**. J.M. will be placed on home instruction for forty-five days during which time the parties will attempt to secure an appropriate out of District placement for J.M.

This order on application for emergency relief remains in effect until a final decision is issued on the merits of the case. If the parent or adult student believes that this order is not being fully implemented, then the parent or adult student is directed to communicate that belief in writing to the Director of the Office of Special Education. Since the parents requested a due process hearing, this case is returned to the Department of Education for a local resolution session under 20 U.S.C. § 1415(f)(1)(B)(i).

August 27, 2024



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DATE

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**KIMBERLY A. MOSS, ALJ**

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