



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

ON EMERGENT RELIEF

OAL DKT. NO. EDS 12937-24

AGENCY DKT. NO. 2025-38158

K.P. and G.P. ON BEHALF OF G.P.,

Petitioners,

v.

GLOUCESTER TOWNSHIP

BOARD OF EDUCATION,

Respondent.

K.P., petitioner, pro se

Susan S. Hodges, Esq., for respondent (Parker McCay P.A., attorneys)

Record Closed: September 20, 2024,

Decided: September 23, 2024

BEFORE: **WILLIAM T. COOPER III**, ALJ:

STATEMENT OF THE CASE

This case arises under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1401 to 1484(a) and 34 C.F.R. § 300.500 (2024). By a request for emergent relief, petitioners K.P. and G.P., on behalf of G.P., seek immediate door-to-door transportation to be added to G.P.'s Individualized Education Plan (IEP). Respondent

Gloucester Township Board of Education, Camden County (District), opposes this request on the grounds that petitioners have not satisfied the requirements for obtaining emergent relief.

PROCEDURAL HISTORY

On September 4, 2024, petitioners filed a complaint for an emergent application with the New Jersey Department of Education (DOE), Office of Special Education. The DOE transmitted the emergent relief request to the Office of Administrative Law (OAL), where it was filed on September 17, 2024, to be heard as an emergent contested matter. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

The District submitted a letter brief in opposition to the emergent request on September 19, 2024. Oral argument on emergent relief, including sworn testimony, was held on September 20, 2024, and the record was closed.

FACTUAL DISCUSSION AND FINDINGS

The following facts are not in dispute and form the basis for the below decision. Accordingly, I **FIND** as **FACTS**:

1. G.P. is an eleven-year-old boy whose date of birth is December 2, 2013.
2. G.P. has been diagnosed with severe neuro sensory processing disorder and has a history of anaphylaxis.
3. G.P. was initially found eligible for special education and related services under the classification of Communication Impairment. An IEP was developed for the 2023–2024 school year by the Stratford Township School District (Stratford).
4. On July 1, 2024, G.P. was enrolled in the District as a fifth grader.

5. Following his enrollment, G.P.'s student records were transferred from Stratford to the District. The IEP developed by Stratford provided G.P. with special transportation and a one-on-one aide.
6. The District has continued special transportation with a one-on-one aide.
7. G.P.'s current bus stop is approximately 100 yards from his home.
8. On August 30, 2024, the District received a medical note from Cooper Pediatric Care at Camden, stating that G.P. requires bus transportation from his home to school and from school to his home.
9. The District requested permission from K.P. to have the District's medical professional communicate with G.P.'s doctor at Cooper Pediatric Care. K.P. denied the District's request.
10. The District and petitioners are scheduled to meet the week of September 23, 2024, to review the current IEP.

LEGAL ANALYSIS AND CONCLUSIONS

N.J.A.C. 1:6A-12.1(a) provides that the affected parent may apply in writing for emergent relief. An emergent relief application is required to set forth the specific relief sought and the specific circumstances that the applicant contends justify the relief sought. Each application is required to be supported by an affidavit prepared by an affiant with personal knowledge of the facts contained therein. Pursuant to N.J.A.C. 6A:3-1.6(b), a request for emergent relief must be supported by a letter memorandum or brief that addresses the standard under Crowe v. DeGioia, 90 N.J. 126 (1982) (Crowe).

N.J.A.C. 6A:14-2.7(r)(1) provides that a request for emergent relief is only permitted for the following issues: 1) a break in delivery of services; 2) disciplinary actions; 3) placement pending the outcome of due process proceedings; and 4) graduation or participation in graduation ceremonies. The District asserts that petitioners

have failed to allege any fact supporting a finding that the contested issues involved any of the above. Here, there is no request for placement pending the outcome of a due process proceeding, no disciplinary actions, and no assertion of an issue regarding graduation or participation in graduation ceremonies. The only potential issue here is a break in delivery of services. However, the transportation offered by the District is the exact same service called for under the current IEP: special transportation with a one-on-one aide. Therefore, I **CONCLUDE** that petitioners have not established that the issue in this matter concerns a break in the delivery of services of G.P., and the application must be denied.

Had a break in the delivery of services been at issue, the emergent application standards for relief are set forth in Crowe v. DeGioia, 90 N.J. 126 (1982) and are codified at N.J.A.C. 6A:3-1.6(b). The petitioners bear the burden of proving all four prongs:

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).]

Irreparable Harm

To obtain emergent relief, petitioners must demonstrate more than a risk of irreparable harm to G.P. Petitioners must make a “clear showing of immediate irreparable injury,” or a “presently existing actual threat; (an injunction) may not be used simply to eliminate a possibility of a remote future injury, or a future invasion of rights, be those rights protected by statute or by the common law.” Cont’l. Grp., Inc. v. Amoco Chems. Corp., 614 F.2d 351, 359 (3d Cir. 1980).

Petitioners have failed to show that the transportation services that are being provided to G.P. will cause irreparable harm. The current IEP for G.P. for the 2024–2025 school year will continue to provide him with special transportation and a one-on-one aide. Further, the bus stop is located within a reasonable distance from his home. Petitioners provided a letter from Cooper Pediatric Care, but that letter is unclear as it does not specifically recommend door-to-door transportation. Further, the letter does not indicate that the current level of services is unsatisfactory. Finally, K.P admits that she refused to allow the District’s medical professional to discuss this issue with G.P.’s pediatrician.

In light of the above, I **CONCLUDE** that the petitioners have not met the burden of establishing that G.P. will experience irreparable harm.

The Legal Right is Settled and Likelihood of Prevailing on the Merits

The second consideration is whether the legal right underlying petitioners’ claim is settled, N.J.A.C. 6A:3-1.6(b)(2), and then third, petitioners must make a preliminary showing of a reasonable probability of success on the merits. Crowe, 90 N.J. at 133.

Again, petitioners have failed to show that the legal right underlying the claim is settled in petitioners’ favor or that they have a likelihood of prevailing on the merits. The letter from Cooper Pediatric Care addresses transportation services, but it does not specify door-to-door pick up/drop off. Further, it does not indicate that the current level of transportation services being provided is insufficient. Further, petitioners admittedly hindered the District’s ability to investigate this issue further.

For the above reasons, I **CONCLUDE** petitioners did not meet their burden of proof as to the second and third prongs of the emergent relief standard.

Balance of Equities and Interests

The final prong of the above test is whether the equities and interests of the parties weigh in favor of granting the requested relief to G.P. Petitioners have failed to articulate what, if any, harm G.P. will suffer if emergent relief is not granted. Although the parents

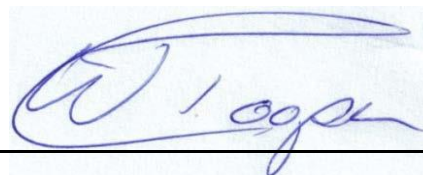
of G.P. want him to have door-to-door transportation, there was no evidence presented that it would result in a greater hardship to G.P. if emergent relief was not granted and G.P.'s transportation was not immediately modified. As such, I **CONCLUDE** that petitioners did not meet their burden of proof under the fourth prong of the emergent relief standard.

I **CONCLUDE** that petitioners' request for emergent relief does not satisfy the applicable requirements for emergent relief. Accordingly, I **ORDER** that the request for emergent relief be **DENIED**.

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 the 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).

September 23, 2024

DATE



WILLIAM T. COOPER III, ALJ

Date Received at Agency:

Date Mailed to Parties:

WTC/am