



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER

EMERGENT RELIEF

OAL DKT. NO. EDS 04018-25

AGENCY DKT. NO. 2025-38739

**HAZLET TOWNSHIP BOARD
OF EDUCATION,**

Petitioner,

v.

**A.C AND G.C. ON BEHALF OF
MINOR CHILD L.C.,**

Respondent.

Danielle Pantaleo, Esq., for petitioner (Busch Law Group, LLC, attorneys)

A.C. and G.G., respondents, pro se

Record Closed: March 10, 2025

Decided: March 11, 2025

BEFORE **JUDITH LIEBERMAN**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

L.C. is a kindergarten student who is eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA). Petitioner Hazlet Township Board of Education (Board or District) seeks an emergent order permitting it

to change L.C.'s classroom placement from the learning and language disabilities (LLD) classroom to the emotional regulation impairment (ERI) classroom, pending the outcome of a due process petition filed by respondents, L.C.'s parents, because he presents a substantial risk of injury to other students and school staff and his behavior impedes L.C.'s education and that of the other students in his class. Respondents believe L.C. should remain in the LLD classroom and their due process petition seeks to ensure that he remains there.

The Request for Emergent Relief was transmitted by the Department of Education, Office of Special Education to the Office of Administrative Law, (OAL) where on March 4, 2025, it was filed as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. The parties submitted pre-hearing briefs and oral argument was heard on March 10, 2025. The record closed that day.

FACTUAL DISCUSSION

The following, which is derived from the petition and its supporting documents, oral argument and exhibits supplied by both parties, is undisputed¹ and, therefore, I **FIND** the following as **FACT**:

L.C. is in kindergarten and will turn six years old on April 27, 2025. On June 5, 2023, he was found to be eligible for special education and related services under the classification category of preschool child with a disability.² During a June 21, 2024, IEP meeting, L.C.'s classification was changed to Other Health Impairment (OHI) due to a diagnosis of attention deficit hyperactivity disorder (ADHD). He was placed in the learning language disability (LLD) classroom and received behavioral supports in response to his in-school behaviors that adversely impacted his learning.³ The District subsequently recommended a functional behavior assessment (FBA) because L.C.

¹ Respondents filed a brief in lieu of an Answer in response to the Petition for Emergent Relief.

² Respondents, his parents, withdrew him from the District on or about August 2023 and reenrolled him in February 2024. He remained eligible for special education and related services.

³On July 16, 2024, respondents advised the District that they did not agree with the IEP; however, they did not file a due process petition challenging it and it remained effective. On or about August 21, 2024, respondents asked that L.C. be placed in a general education program. The CST rejected the proposal. Id. at ¶ 21.

exhibited “interfering behaviors of disruption, noncompliance, negative talk, elopement and noncompliance.” P-1 at 5. Respondents consented to the FBA, which was conducted on October 11, 2024.

Before the FBA was completed, L.C. exhibited “many significant behavioral issues in the classroom” during the fall of 2024. Certification of Co-Director of Special Services William Andersen (“Andersen Cert.”) at ¶24. They included:

1. On September 16, 2024, he “threw a chair, hit and kicked staff, elbowed peers and threw objects in the classroom. He also vocalized that he wanted to ‘torture’ other students, and told a student that he hates him.” Ibid. He also attempted to elope fifteen times.
2. On September 17, 2024, he “threw books, toys, spit at peers and staff, hit a teacher, slapped the arm of his paraprofessional several times, and threw objects at other students. L.C. also vocalized that he wanted to kill another student, and that he hated teachers. He made [twenty] attempts to elope[.]” Ibid.
3. On September 18, 2024, he threw objects; kicked and attempted to destroy objects in the classroom; “threw his shoe at another student in the lunchroom[;] hit another student and his case manager[;] and attempted to damage other student’s [sic] learning aids. L.C. then vocalized that he was going to hit another classmate[;] told staff he wanted to hit them[;] and told another student he wanted to kill her.” Ibid.
4. On September 19, 2024, he “jumped off tables in the classroom[;] head butt and spit at his teacher[;] shoved a pencil box into another student[;] pushed a female student against the wall and started punching her[;] and hit his gym teacher. L.C. vocalized that he was going to be bad at school” and said, “fuck this, fuck that” and “I’m going to punch you in the face,” “you hate me and I hate you” and “you are my enemy.” Ibid.

5. On September 20, 2024, he punched his paraprofessional three times; punches two students; “threw a door stop and hit his teacher[;]” and called other students losers and morons. Ibid.
6. On October 10, 2024, “L.C. crawled over to attack another student, told the student he would kill him and then began hitting and kicking the paraprofessional when she placed herself between L.C. and the student.” Id. at ¶ 26.
7. On October 11, 2024, the bus driver reported to administration staff and respondents that L.C. talked about guns and killing people while on the bus ride home from school. Id. at ¶ 28.

The crisis intervention team (CIT) “felt that the behavior was sufficiently serious to warrant collecting data and attempting to address the behaviors in a more concerted fashion.” Id. at ¶25.

The October 11, 2024, FBA found that L.C. engaged this behavior for attention and to avoid having to respond to demands and possibly to obtain items or activities that he desired. These behaviors interfered with his learning and his ability to develop positive relationships with peers and occurred throughout school and with multiple staff members. P-1 at 5.

On October 11, 2024, a facilitated IEP meeting was held to discuss the results of the FBA; to review a crisis plan; and to propose additional interventions and a formal behavioral improvement plan (BIP), which would be reviewed during a November 21, 2024, meeting. A revised BIP, dated November 21, 2024⁴, addressed the following behaviors:

1. Disruptions such as displacing or climbing onto furniture, destruction of items and yelling or screaming at a “volume higher than a conversational level” longer than ten seconds. P-1 at 9.

⁴ During a November 21, 2024, IEP meeting, the CST reviewed data from the October 2024, BIP and revised the document to address additional concerns.

2. Noncompliance by refusing to follow a directive or complete a task within thirty seconds or verbal refusal to perform tasks coupled with failure to perform the task.
3. Calling others names; saying negative things or making verbal threats about himself or others; threatening to damage property; use of explicit language.
4. Aggressive acts such as hitting, kicking, pinching, spitting toward another person or throwing objects with the perceived intent to harm someone.
5. “Elopement” which is “[a]ny attempt at or engagement in: moving more than three feet away from a designated area in any areas of the school building/grounds without being given explicit permission to do to.” Id. at 10. Also, stepping more than one foot out of a doorway without permission.

The BIP directed staff to employ multiple procedures to address these behaviors including but not limited to verbal praise, close supervisions, “movement breaks,” visual supports, choices, and a reward system. Id. at 10 – 12. A “crisis plan” applied when L.C. engaged in more than one attempt at aggression toward students or property damage that “could cause damage” to himself or others. Id. at 13. The other students were to be removed from the classroom; staff were to ignore L.C.’s behavior while keeping him within sight and they were to attempt to “block” his “disruptive or aggressive behaviors.” Ibid. Staff were authorized to remove L.C. from the classroom if the other students could not be removed. L.C. would then work in a separate room, while staff were to “avoid engaging [him] in conversation or enjoyable activities[.]” Ibid. All students were permitted to be in the same classroom after L.C. was calm for ten minutes “without engaging in targeted behaviors.” Ibid. Staff were directed to collect data every ten minutes, every day.

Because the staff could not adequately respond to L.C.’s aggression, on or about October 15, 2024, a registered behavioral technician (RBT), who was trained by a board certified behavior analyst (BCBA) to implement the BIP, was assigned on a one-to-one

basis to support L.C. After then, the volume of L.C.'s incidents slowly decreased but the severity of his behaviors increased.

A November 21, 2024, IEP continued L.C. in the LLD classroom for language arts, math and health because he "require[d] a small class setting for emotional regulation." P-1 at 22. He was placed in general education science and social studies classes and received speech services, school based counseling and behavioral consultation.⁵ Id. at 26.

Starting September 16, 2024, logs of L.C.'s behaviors and "behavior sheets" were maintained by the District and provided to respondents each day. Notes were recorded at ten-minute intervals. They record each incident involving disruption, non-cooperation, negative talk, aggression and elopement and are incorporated herein by reference. By way of example, on October 15, 2024, when an RBT was assigned to assist only L.C., he disrupted five times; did not cooperate eleven times; engaged in negative talk nine times; acted aggressively ten times; and eloped eight times. This included throwing an object at and kicking a teacher; spitting at someone in the classroom continuously; hitting himself in his head with a closed fist; and stating that he hated his teachers. The following day, there were a similar number of incidents, including hitting and kicking teaching staff; pretending to shoot his teacher and other students; and spitting at and pushing students. P-2.

The logs document that L.C.'s aggressive behaviors increased. On December 9, 2024, L.C. said that he wanted to punch his teacher in the head and, while in the classroom, said that he wanted to kill all of his friends with his bare hands. The crisis intervention staff (CIS) interviewed him and cleared him to return to class. Upon returning to class, L.C. pointed at another student and said, "I'm going to kill you" several times. L.C. was removed from the classroom and respondents were asked to pick him up. Andersen Cert. at ¶ 31.

⁵ Respondents assert that they objected to the IEP; however, they did not file a due process petition and, instead, requested that another IEP meeting be conducted within thirty days. They agree that LLD is the stay-put placement.

On December 19, 2024, he spit on a teacher; “spit all over” the RBT; punched the RBT with a closed fist; stabbed a teacher with a pencil; kicked and punched the RBT; and hit a staff member with his head. On December 20, 2024, he hit, punched and kicked the RBT; told a staff member he “fucking hate” them; and threw a book. On January 2, 2025, he punched someone in the head twice; threatened to throw a pencil in someone’s eye; pushed the RBT; and said that his mother told him to always be prepared for a fight. P-2.

On January 3, 2025, he said he “fucking” hate his teachers and the principal; kicked and punched the RBT; and threw a chair. On January 6, 2025, he spat on a student; hit the RBT and another staff member; pushed chairs; and engaged in activity that caused another student to tell him to stop because it was dangerous. On January 8, 2025, he punched and kicked the RBT and staff members; climbed and jumped off tables; and punched a mirror; On January 9, 2025, staff recorded over 100 incidents, seventeen of which involved hitting or kicking staff members, including the RBT, sometimes multiple times in a row. That same day, he threw himself backward and hit his head on the floor; said, “Do you want to see what a dead teacher looks like I’ll show you;” and threw garbage on a staff member’s head while saying she “deserved it.” Ibid.

On January 21, 2025, there were seventeen total incidents including punching and kicking a teacher four times and throwing a box at two students. On January 24, 2025, he hit or punched staff members, including the RBT, six to nine⁶ times; stuck himself in the head with a closed fist; and threatened to smack someone in the mouth. On January 27, 2025, he threw a chair, eraser and paper at the RBT, punched the RBT multiple times, and hit his head on the wall. There were too few staff to remove him from the classroom and he was put in the “calming corner” where he punched the divider walls of the corner. After he was calmer and asked if he could join the class, he hit his head on the divider wall.

On January 28, 2025, he kicked and punched the RBT three or four times; pushed a chair into the RBT; and punched another staff member. He also threw an

⁶ It is unclear whether notes on the log record additional incidents or simply provide detail about incidents.

item at another student and hit him on the arm and tried to hit another student. On January 29, 2025, he punched the RBT twice, and hit three other staff members. He told a staff member he hated her and was “killing” her. He threw another student’s token board and threw food at the same student.

On January 30, 2025, he hit and kicked the RBT at least three time and hit and kicked three other staff members. He flipped, climbed on and tried to break dividers. He punched a staff member on the hand forty-two times and kicked her three times. He threatened to beat and punch staff multiple times throughout the day. He said he would bring multiple weapons to school.

Daily reports recorded that he spit in a student’s face. On February 7, 2025, he pushed a student; was stopped from hitting another student; insulted students; and hit and kicked staff. On February 10, 2025, hit and kicked staff. On February 12, 2025, he punched, kicked and tried to trip staff. On February 13, 2025, he hit a student four times, hit and kicked staff multiple times, and wielded a pencil as a spear toward staff. P-3.

The above summaries do not include every recorded incident of misbehavior or physical aggression. The logs and reports for each of the days listed above, as well as every other day from September 16, 2024, through January 30, 2025, report multiple acts of disruption and disobedience addressed to staff and other students. This included screaming; threats of violence toward students and staff; stating that he did not like specific students; behaving in ways that bothered other students even after having been told to stop; telling teachers that he hated them and that he would not listen to them or that he would hit them if they forced him to behave a certain way; stabbing furniture with pencils while stating that he is angry; destroying and punching items in the classroom; throwing items and garbage; climbing onto and jumping off chairs and desks; and refusing to participate in class activities or follow directions.

A graph of L.C.’s aggressive actions, reported as percentage of intervals in which he engaged in such behavior, shows that the percentage ranged from a low of 15% to highs of 75% between December 20, 2024, through February 13, 2025. P-4.

Nearly every day, the BCBA determined that either L.C. or the other students in the LLD class needed to be removed from the room in response to L.C.'s actions. The other students, who are also kindergarten age, heard L.C.'s threatening language, which included cursing and threats of serious violence or death to them and staff. Staff recognized that L.C. was trying to get attention. As new methodologies were implemented to address his behaviors, his behaviors became worse because he needed to do more to get attention. They did not believe that L.C. would improve over time in the LLD classroom.

The BCBA and RBA recommended the emotional regulation impairment (ERI) classroom, which is for special education students who “demonstrate physically and/or verbally aggressive and/or defiant behaviors over a significant amount of time with increased intensity and frequency, despite intensive efforts to teach replacement behaviors and to reinforce positive behaviors.” P-5. L.C. would continue to have a dedicated RBT, as well as the RBT for the ERI class and additional supports and services that are not available in the LLD kindergarten class: “Zones of Regulation, Rethink Health and Wellness, classroom physical designed for emotional regulation, staff trained to support emotional dysregulation, access to sensory rooms, and an onsite behavior team.” Andersen Cert. at ¶ 40. The curriculum is similar to that in LLD; however, social and emotional regulation is addressed throughout the day in ERI while in LLD, it is addressed in health class two to three times per week. ERI students are not removed from class when they engage in physical or verbal aggression. Rather, these incidents are treated as teaching moments. Students do not have access to items that could be used in a violent manner.

There are currently six children in the classroom, from first through third grade. L.C. would be the only kindergarten student. The oldest child is thirty-seven months older than him. While in ERI, L.C. would be evaluated regularly to determine when he could be moved to a less restrictive environment.

The CST proposed the new placement on January 24, 2025. Respondents did not agree and filed a petition for due process to enforce L.C.'s stay put placement (LLD, per the November 21, 2024, IEP).⁷

On January 30, 2025, there were multiple incidents of punching, kicking and spitting at staff members, and L.C. spit in another student's face. L.C. stated to the student that he was going to bring weapons to school to shoot him. L.C. was removed from the classroom and was seen by the CIT. He told the CIT that he wanted to bring a gun to school and kill his teacher. The CIT conducted a threat assessment to determine if he would harm himself or others and determined he was a "level three" risk, which is the highest risk level and meant that he was unable to calm himself and stop his behaviors. As a result of this conduct, L.C. was suspended from school for five days, from January 31, 2025, through February 6, 2025. He returned to school on February 7, 2025. P-5.

On February 12, 2025, L.C. flipped a chair in the classroom. After this was addressed, he flipped over two more chairs, almost hitting another student who attempted to "fix" one of the chairs. Pursuant to the BIP, staff removed L.C. from the classroom and used walkie talkies to request assistance. When he was out of the classroom, staff observed him "kicking, hitting his teachers, and trying to trip them. L.C. began screaming, turning red, and flailing his arms and legs. As this was happening, he punched one of the teachers in the face, knocking her glasses off and leaving a red mark on her face. During this outburst, he said, 'You are messing with the wrong kid.'" Andersen Cert. at ¶36. "L.C. was calmed down, cleared and returned to class, and proceeded to knock materials off the table. He was asked to help pick up the papers, and said 'Never! Mind your own business.' He then held up a pencil in his fist making stabbing motions. Prior to the conclusion of the day, L.C. punched his teacher [three] times yelling 'punch, punch, punch.'" *Ibid.* In response, on February 12, 2025, he was suspended from February 13, 2025, through February 20, 2025, and returned to school on February 21, 2025. *Id.* at ¶ 37, P-6. Respondents were asked to take L.C. home

⁷ Respondents advise that they also seek placement in a general education setting; however, they would accept LLD placement.

from school two other times when school personnel believed they could not maintain his safety due to his behavior.

Between the first and second suspension, respondents advised the District that L.C. was diagnosed with autism on January 7, 2025. They did not tell the District about the diagnosis at that time because they believed he would be moved to an autism classroom where the other children were non-verbal. The District advised that the ERI instruction would be tailored to L.C.'s needs including the autism diagnosis.

PARTIES' ARGUMENTS

Petitioner contends that it meets the standard for emergent relief because L.C., staff and other students face a substantial risk of harm due to L.C.'s behavior. Also, his behavior prevents it from providing L.C. and his classmates a FAPE. It has a legal right to change L.C.'s placement under these circumstances; it is likely to prevail on the merits; and the District will suffer greater harm than respondents if it cannot address L.C.'s behavioral issues through an ERI placement. Respondents, conversely, will receive the benefit of greater behavioral supports for L.C.

Respondents assert that the ERI classroom is inappropriate for multiple reasons including that older children are in the class and he would lose existing mainstreaming opportunities. They also argue the substance of their due process⁸ petition including that, had the District consistently followed the terms of L.C.'s BIP, he would have engaged in fewer inappropriate behaviors. Also, the District failed to recognize L.C.'s attention-seeking motivation or consider his recent autism diagnosis and consequently employed inappropriate methods to address his behavior. Further, he is picked on and teased in the LLD classroom and is "unfairly blamed for behavioral issues" and, had the District permitted their private therapist to work with L.C. while in school, his behavior would have improved. Resp't's. Brf. at 3.

⁸ They assert that the District failed to provide a free, appropriate public education (FAPE) by proposing the more restrictive ERI classroom and by committing procedural violations. They also assert that the District violated Section 504 of the Rehabilitation Act by imposing retaliatory suspensions and failing to provide accommodations. Resp't's Brf. at 4-5.

Respondents also assert that the District ignored their doctors' and therapists' recommendations. The provided the following from their practitioners:

1. A January 2, 2024, letter from Tyler Soos, LSW Psychotherapist at Children's Specialized Hospital (CSH), who saw L.C. for "his ongoing behavioral concerns, aggression, and difficulties regulating his emotions and behaviors[.]" R-1. He recommended, in general, supports and accommodations, an FBA and a CST evaluation.
2. An April 24, 2024, progress note by Tara A. Matthews, M.D., of Children's Specialized Hospital (CSH). L.C. has a high IQ and was diagnosed with ADHD, stuttering and impulsiveness. Dr. Matthews noted that he was expelled from an afternoon preschool program in April 2024. She recommended starting with the least restrictive educational setting but modifying it as necessary "to more specialized and intensive services based on [L.C.'s] needs." R-2 at 4. She recommended a BIP that involved rewards for good behavior; ignoring "behavior as much as possible" and concise reprimand when necessary. Ibid. She recommended accommodations including behavioral measures that would keep him organized and focused, specialized instruction and tutoring for specific learning disabilities, and possibly technology support and workload modifications.
3. An April 24, 2024, letter from Dr. Matthews in which she described his diagnoses as ADHD, stuttering and "behavior problems, including impulsiveness." R-3. She reiterated the recommendations in her progress notes.
4. An undated letter from Danielle Donatelli, LSW, to the Director of Special Services in which she wrote that L.C. had been receiving in home behavioral therapy since August 2023. She requested a reevaluation of L.C. because "[c]oncerning behaviors have been noted consistently in both the school and home environments with little improvement." R-4.
5. A February 4, 2025, letter from Maria Ridley, Psy.D., who provided behavioral therapy to L.C. at CSH. She wrote that he "is not deemed to be a risk to himself

or others at this time, and he is fit to return to school on February 5, 2205. However, he does continue to present with some behavioral issues, including defiance and low frustration tolerance.” R-5. She recommended some “strategies” to help him when he gets upset in school.

6. A March 6, 2025, letter from Sandra Ivelissa Rodriguez, LPC, who was his intensive in-community counselor. She wrote that he is diagnosed with adjustment disorder and was responding to respondent’s concerns concerning the supports provided by his school. She referred to unspecified “recent observations” that “indicated a need for increased” staff training “on how to manage behaviors effectively.” R-6. She added that “[t]ransitioning him to a larger classroom, as suggested by his parents, could provide more opportunities for engagement and learning from his peers, which is essential for a child of his age.” Ibid.

LEGAL ANALYSIS AND CONCLUSIONS

Emergent Relief

N.J.A.C. 1:6A-12.1(a) provides that a parent, guardian, board or public agency may apply in writing for emergency relief. An applicant for emergency relief must set forth in the application the specific relief sought and the specific circumstances they contend justify the relief sought. Emergent relief shall only be requested for the following issues:

- i. Issues involving a break in the delivery of services;
- ii. Issues involving disciplinary action, including manifestation determinations and determinations of interim alternate educational settings;
- iii. Issues concerning placement pending the outcome of due process proceedings; and
- iv. Issues involving graduation or participation in graduation ceremonies.

[N.J.A.C. 6A:14-2.7(r)1]

Here, the District seeks to change L.C.'s placement, arguing that continuation in his current placement presents an unacceptable risk to his health and safety and that of the other students and staff and consequently impedes his education. It sought to place him in the ERI classroom but was unable to because respondents objected and filed a due process petition seeking implementation of the last agreed-upon placement. Thus, this matter concerns placement pending the outcome of the due process petition and emergent relief may be sought.

Pursuant to N.J.A.C. 1:6A-12.1(e) and N.J.A.C. 6A:14-2.7(s)1, emergency relief may be granted if:

- 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. DeGoia, 90 N.J. 126 (1982). The moving party must satisfy all four prongs set forth in Crowe and the regulations or the application for emergency relief will be denied.

In this matter, the District's request for emergent relief concerns the modification of a "stay put" triggered by the parent's filing of a due process petition. The "stay put" acts as an automatic statutory injunction against any attempt to change a student's placement from that which is in effect at the time the parents invoke the dispute resolution procedures embodied in state and federal law. Drinker by Drinker v. Colonial School Dist., 78 F.3d 589, 864 (3d Cir. 1996).

The "Stay Put" provision of the Individuals with Disabilities Act (IDEA) provides that:

[D]uring the pendency of any proceedings conducted pursuant to this section, unless the State or local education agency and the parents otherwise agree, the child shall remain in the then-current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until such proceedings have been completed.

[20 U.S.C. §1415(j)].

N.J.A.C. 6A:14-2.7(u) similarly provides that:

Pending the outcome of a due process hearing, including an expedited due process hearing, or any administrative judicial proceeding, no change shall be made to the student's classification, program or placement unless both parties agree, or emergency relief as part of a request for a due process hearing is granted by the Office of Administrative Law. . .

While a “stay put” may be modified during the course of a due process proceeding, such modification may occur only under exceptional circumstances. Honig v. Doe, 484 U.S. 305 (1988). As the District seeks relief from the “stay put”, the statutory presumption may only be overcome by a showing that the child in his or her current placement is substantially likely to result in injury to the child or to others. Id. at 328. Honig explained that the court must balance a student's interest in receiving a FAPE against “the interests of the state and local school officials in maintaining a safe learning environment for all their students.” Ibid.

Here, there is ample evidence in the record, taken in large part from its meticulous records, that L.C. is extremely disruptive, engaging in hundreds of acts of aggression, disruption, non-compliance, negative talk and elopement. This includes behavior that is potentially injurious to L.C. Indeed, the CIT assessed him as being at the highest level of risk notwithstanding the District's enhanced interventions and supports, including a BIP and a dedicated RBT. The FBA found that LC.'s behaviors interfered with his learning and it is reasonable to understand that the other students'

classroom experiences are adversely affected by L.C.'s behavior and prevents them from making meaningful progress. In fact, the other students, all kindergarteners, are exposed to his threats, foul and abusive language, and physical aggression. Moreover, because of L.C.'s behavior, either he or all of the other students have been removed from the classroom each day. For these reasons, the District has demonstrated irreparable harm will occur if L.C.'s placement is not immediately changed because of his ongoing behavior.

The legal right underlying the District's petition is well settled. It has an obligation to provide a safe and secure learning environment for all of its students to receive an appropriate education. Moreover, it has a legal responsibility to develop and implement an IEP that provides L.C. and his classmates a FAPE, which necessarily includes an appropriate placement. Maintaining the current placement will likely result in injury to L.C., his peers and District staff. It also impairs the ability of L.C. and other students in his class from making meaningful education progress. Accordingly, I find that the legal right underlying the District's claim is well settled. For these reasons, I also find that the evidence submitted by the District demonstrates that there is a likelihood that it will prevail on the merits.

Finally, I find that the District has also demonstrated that, when the equities and interests of the parties are balanced, it will suffer greater harm if the requested relief is not granted. The District will suffer greater harm because maintaining L.C. in his current placement presents a risk of harm or injury to himself and others. Moreover, the District will suffer harm because L.C.'s behavioral aggressions impede it from being able to provide L.C. or his classmates with a FAPE in the least-restrictive environment.

I note that the reports and letters from L.C.'s medical providers do not offer an opinion about his current placement. Rather, the District implemented the type of measures recommended by Ms. Soos and Dr. Matthews. Ms. Donatelli, Dr. Ridley and Ms. Rodriguez each acknowledged L.C.'s concerning behaviors. Dr. Matthews acknowledged that a more restrictive environment may be necessary. And while Dr. Rodriguez posited that a larger class could provide more opportunities for engagement

and learning from L.C.'s peers, she did not opine that a larger class would address his behavioral issues.

I recognize respondents' sincere concern for their son and their belief that he does not need the ERI placement. However, the evidence strongly supports the District's position. I note that the ERI placement is temporary, pending the outcome of the due process petition or until the parties reach an alternative arrangement, if possible.

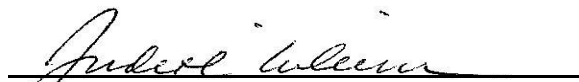
ORDER

Based on the foregoing, petitioner's request for emergent relief is **GRANTED**. L.C. shall be placed in the emotional regulation impairment classroom pending the disposition of respondents' pending due process petition. Petitioner is not precluded from revisiting L.C.'s placement if it determines that he no longer needs to be in the ERI classroom.

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).

March 11, 2025

DATE


JUDITH LIEBERMAN, ALJ

JL/mg

APPENDIX

WITNESSES

For petitioner

A.C.

G.C.

For respondent

William Andersen

EXHIBITS

For petitioner

P-1 November 21 2024, IEP

P-2 Partial Interval Behavioral Data Collection

P-3 Daily Logs

P-4 Interval graphs

P-5 January 31, 2025, suspension record

P-6 February 13, 2025, suspension record

For respondent

R-1 Letter from Tyler Soos, LSW

P-2 Progress note by Tara A. Matthews, M.D.

P-3 Letter from Dr. Matthews

P-4 Letter from Danielle Donatelli, LSW

P-5 Letter from Maria Ridley, Psy.D.

P-6 Letter from Sandra Ivelissa Rodriguez, LPC