



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

EMERGENT RELIEF

OAL DKT. NO. EDS 00383-26

AGENCY DKT. NO. 2026-40238

J.M. AND L.M ON BEHALF OF I.M.,

Petitioners,

v.

SOUTH ORANGE-MAPLEWOOD

BOARD OF EDUCATION,

Respondent.

J.M. and I.M., petitioners, pro se

Marc G. Mucciolo, Esq., for respondent (Busch Law Group, attorneys)

Record Closed: February 27, 2026

Decided: March 3, 2026

BEFORE **KIMBERLY K. HOLMES**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On February 2, 2026, petitioners J.M. and L.M. (“petitioners”), on behalf of their minor son, I.M., filed a pro se petition for due process seeking compensatory services, reimbursement for privately funded evaluations, therapies, funding for transportation pursuant to I.M.’s Individualized Education Program (“IEP”). In petitioners’ first

application for emergent relief, they requested that the Court implement a stay put for I.M. to which respondent the South Orange-Maplewood Board of Education (the "District") asserted that it never attempted to change the placement in violation of stay put. The District submitted their response on February 9, 2026.

Between February 2, 2026 and February 12, 2026, petitioners submitted numerous emails and documents for what they determined to be an "informal prehearing and case management request."

On February 9, 2026, the District opposed the initial emergent application, asserting that there was no dispute to I.M.'s current stay-put placement at Celebrate the Children ("CTC"), a private placement. The District asserted that the CTC placement was effectuated through a November 20, 2025 IEP, that petitioners consented in writing on November 6, 2025, and that I.M. began attending CTC on December 1, 2025 (Ex.1).

On January 20, 2026, there was a new IEP based on a thirty (30) day review meeting held by CTC who recommended minor changes to the November 20, 2025 IEP (Ex. 2). The District asserted that the program, placement, services and eligibility contained in the November 2, 2025, and January 20, 2026, IEPs were the same and are still in effect for I.M., their minor child.

On February 12, 2026, the case was scheduled for an initial prehearing conference to address the petitioners' February 2, 2026, emergent relief application.

On February 12, 2026, the petitioners filed a second emergent application seeking transportation relief only.

On February 17, 2026, the District responded to the second emergent application asserting that petitioners failed to meet the criteria for emergent relief under N.J.A.C. 6A:14-2.7(s)(1), N.J.A.C. 1:6A-12.1 and that there is no legal right to their requested relief under Crowe v. DeGioia, 90 N.J. 126 (1982).

On February 5, 2026, the Office of Special Education (“OSE”) transmitted the emergent application to the Office of Administrative Law for a determination as a contested matter.

On February 12, 2026, I conducted a telephonic prehearing conference with the parties during which petitioner and the District articulated the reasons for and in opposition to both emergent relief filings.

The District submitted its written opposition to petitioner’s second emergent application which was received on February 19, 2026. I considered the documents previously submitted by petitioners as a part of the record. The petitioners did not file any other documents in response to the District’s February 19, 2026 submission. I waited until February 27, 2026, and closed the record.

FINDINGS OF FACT

Based on the oral arguments and documents presented by the parties, I **FIND** the following as **FACT** for purposes of this application only:

1. I.M. is ten years old and currently attends CTC, which is an out-of-district placement through a November 20, 2025 IEP.
2. I.M. is a classified student who is eligible for special education services under the category of autism.
3. Petitioners are the parents of I.M., the minor child.
4. J.M. is the father and L.M. is the mother of I.M.
5. On November 20, 2025, the petitioners consented to I.M. being placed in CTC the terms of which are in the IEP(Ex. 1).

6. On November 26, 2025, petitioners agreed to the change in placement where I.M. began attending CTC on December 1, 2025. (Certification of Superintendent.)
7. The District did not change the November 20, 2025 IEP.
8. The January 20, 2026 IEP meeting was held at CTC with the Child Study Team, the CTC staff and petitioners.
9. The January 20, 2026 meeting occurred to assess I.M.'s performance at the new placement, and for CTC to offer input and make recommendations based upon their curriculum and practices.
10. CTC made recommendations for minor changes to the November 20, 2025 IEP including revisions to the goals and objectives based on working with I.M. and staff (Ex. 1 and Ex. 2).
11. The fundamental program, placement, services and eligibility contained in the November 20, 2025 and January 20, 2026 IEPs continue to exist and are the same for I.M.
12. While attending CTC, I.M. began demonstrating behavior which caused safety concerns while on the bus being transported to and from CTC (Ex. 1).
13. I.M. refused to sit down and stay buckled in the seat. I.M. would lay in the aisle while the bus was moving and when it was not moving (Ex. 1).
14. I.M. continued to exhibit dangerous behavior even with a 1:1 aide assisting I.M. on the bus (Ex.1).

15. The third-party transportation company informed the District that absent additional safety precautions, it could not continue to transport I.M. to CTC based on I.M.'s behavior (Ex. 1).
16. The petitioners did not agree to the District's request to use a seat belt lock or harness to transport I.M. to and from CTC (Ex. 1).
17. The petitioners rejected the standard parental transportation agreement offered by the District unless it provided additional funds for them having to miss work to transport their child to and from CTC (Ex. 1).
18. The District was able to secure a minivan with a male 1:1 aide, a standard seatbelt and video recording capabilities to transport I.M. to and from CTC (Ex. 1).
19. The District advised the petitioners of the proposed change in transportation on February 13, 2026 (Ex. 1).
20. On February 23, 2026, the new mode of transportation for I.M. was scheduled to start.
21. The petitioners have not objected to the new mode of transportation.

LEGAL ANALYSIS AND CONCLUSIONS

This case arises under the Individuals with Disabilities Education Act ("IDEA"). 20 U.S.C. §§ 1400 to 1482. One purpose of the IDEA is to ensure that all children with disabilities have available to them a Free Appropriate Public Education ("FAPE"), which includes special education and related services designed to meet their unique needs. 20 U.S.C. §§ 1400(d)(1)(A), 1401(9).

In New Jersey, the State Board of Education has promulgated rules following the standards outlined in the IDEA. N.J.A.C. 6A:14-1.1(b)(1); N.J.A.C. 6A:14-1.1 to -10.2.

Under N.J.A.C. 6A:14-2.7(r)(1), a party may request emergent relief in the context of an education action 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.

Based on petitioners' allegations, this case ostensibly involves issues concerning compensatory services, reimbursement for privately funded evaluations, therapies, continued funding for out of district placement and transportation pending the outcome of the underlying due process proceedings.

Under N.J.A.C. 1:6A-12.1(e), an ALJ may order emergency relief pending a decision in the case, 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.

Petitioner carries the burden of proof and must satisfy all four requirements. Crowe v. De Gioia, 90 N.J. 126 (1982). Petitioner must also prove each of the requirements "clearly and convincingly." Waste Mgmt. of N.J. v. Union Cnty. Utils. Auth., 399 N.J. Super. 508, 520 (App. Div. 2008).

Here, petitioners cannot meet any of the requirements of N.J.A.C. 1:6A-12.1(e), and their application must be denied as a matter of law.

Turning first to petitioners' first request for emergent relief and supplemental filing dated February 7 and February 9, 2026, respectively, that a stay-put be implemented for I.M., I **FIND** the issue to be without merit and moot for the reasons outlined below.

First, I.M.'s current stay-put placement is still in effect at CTC, a privately approved placement which was effectuated through a November 20, 2026 IEP (Ex. 1). Second, the petitioners agreed to the change in placement on November 26, 2025, which allowed their child to attend CTC on December 1, 2025. I **FIND** that the District did not attempt to change the placement of I.M. at CTC in violation of the stay-put. Third, it is customary practice for the private placement to meet with the Child Study Team, the placement staff and the parents to assess the child's development when attending a new placement. I **FIND** that the purpose of the January 20, 2026 IEP was for CTC to offer input and assess I.M.'s initial progress and make recommendations to the existing IEP based upon their curriculum and practice. Revisions to goals and objectives based upon the staff at CTC working with I.M. does not equate to fundamental changes to the program, placement or services which I.M. is currently receiving at CTC (Ex. 1 and Ex. 2).

The petitioners' request to invoke the 'stay put' protection under 20 U.S.C. § 1415(j) and N.J.A.C. 6A:14-2.7(u) is without merit. The 'stay put' protection is designed to prevent the District from making a unilateral change to a student's educational placement. It ensures that the status quo is maintained during the course of proceedings when there is a dispute over a *proposed* placement. Here, the stay put protection is in place and I.M. is currently at CTC. In this case, the terms and conditions contained in the November 20, 2025 and January 20, 2026, IEPs are the same and continue to be in effect for I.M.

Turning next to petitioners' second request for emergent relief for transportation only filed on February 12, 2026, I **FIND** that they have not established the burden of proof required for relief to be granted under the law and that their request for emergent relief must be denied for the reasons outlined below. Crowe v. DeGioia, N.J.A.C. 6A:14-2.7 and N.J.A.C. 1:6A-12.1.

a. Irreparable Harm

Irreparable harm is one where the harm “cannot be redressed adequately by monetary damages.” Frank’s GMC Truck Center v. General Motors Corp. 847 F.2d 100, 102 (3rd Cir. 1988). The harm needs to be substantial and immediate and is not analyzed in a vacuum. Instead, the “irreparable harm” is analyzed upon review of the surrounding facts and circumstances to determine if the potential for harm actually exist. Here, the petitioners have not provided sufficient proof that I.M. will suffer irreparable harm if the District does not immediately implement their transportation request to have a 1:1 aide who uses “soft hand” support where appropriate, to have a Registered Behavior Technician (“RBT”) on the vehicle when transporting I.M. to and from CTC, to collect data and implement behavioral strategies, to have additional measures governing the documentation, video, and video retention regarding bus incidents and to have no unilateral implication of seat belt locks or harness devices.

In this case, I.M. already has support from a 1:1 aide who is trained and attempts to use the “soft hand” approach as petitioners requested. Moreover, the District has determined that there is no need for an RBT on the vehicle while I.M. is being transported to and from CTC. Third, an additional adult to potentially retain I.M. while being transported to and from CTC is more restrictive than a seatbelt lock or harness. There is no need for additional data collection to determine the cause of I.M.’s behaviors while being transported to and from CTC. It is within the purview of the transportation company to implement additional measures governing documentation, video and video retention regarding bus incidents. The transposition company is not a party in this case. Finally, the District has already secured a minivan that offers less space for I.M. to move out of the seat while being transported. There is no break in services as the new mode of transportation began on February 23, 2026. I **FIND** that the petitioners have not met the irreparable harm prompt of Crowe.

b. Legal Right Underlying the Claim

Here, as previously articulated, the District has already met three of the four requested items that the petitioners asked of them. In terms of the fourth request of the

RBT, there is no reason to collect additional data of I.M.'s behavior while in the vehicle at this time. Again, the District has already offered a less restrictive option, a minivan with a 1:1 aide and a regular seatbelt. Because the petitioners have not demonstrated any support that a legal right underlying their claim for specific transportation services is settled by law, I **FIND** that they have not satisfied prong two of Crowe.

c. Substantial Likelihood of Success

In this case, the District has already secured a minivan with a male 1:1 aide, use of a standard seatbelt, and video recording capabilities to transport I.M. to and from CTC. The use of a harness would not be necessary as there is no center aisle for I.M. to attempt to enter while the minivan is in motion. The District believes this is an appropriate means of transportation for I.M. given the facts and circumstance. Moreover, the petitioners have no evidence, nor legal authority to support their claim to have a substantial likelihood of prevailing on the merits for additional transportation support. Accordingly, I **FIND** that the petitioners have not met the third prong of Crowe.

d. Equities and Interests of the Parties

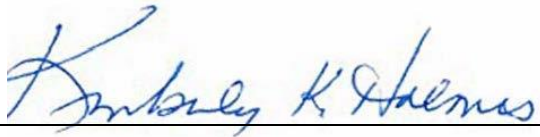
Upon balance, there is no harm that would come to petitioners if the relief were not granted now. However, more harm would come to the District because the dispute resolution process created by the IDEA would be in jeopardy and could cause a rapid influx in Emergent Relief Petitions by parents if granted. There is an existing plenary Due Process proceeding already in place. Here, the balance of equities and interests tip in favor of the District who would suffer far greater harm than petitioners if it is required to provide additional transportation support for I.M. when it already has workable options available. Therefore, I **FIND** that petitioners have failed to meet the fourth prong of Crowe. The failure to demonstrate a single element of the Crowe analysis is fatal to petitioners' request for emergent relief. Accordingly, I **CONCLUDE** that petitioners have not met their burden of proof and is not entitled to emergent relief under N.J.A.C. 1:6A-12.1(e).

ORDER

Based on the foregoing, I **ORDER** that petitioners' request for emergent relief is **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. As the parent 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).

March 3, 2026
DATE



KIMBERLY K. HOLMES, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

KKH/jb

APPENDIX

Exhibits

For Petitioner:

Application for Emergent Relief, with supporting motion papers, dated February 12, 2026.

For Respondent:

Letter Memorandum in Opposition to Petitioner's Motion for Emergency Relief, dated February 17, 2026

Certification of Superintendent, dated February 17, 2026, attaching Exhibit 1