



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

EMERGENT RELIEF

OAL DKT. NO. EDS 02966-26

AGENCY DKT. NO. 2026-40511

**RIDGE AND VALLEY CHARTER
SCHOOL BOARD OF EDUCATION**

Petitioner,

v.

C.R. ON BEHALF OF C.B.

Respondent.

Thomas O. Johnston, Esq., for petitioner (Johnston Law Firm, attorneys)

C.R. on behalf of C.B., respondent, pro se

BEFORE **CLAUDIA L. MARCHESE**, ALJ:

Record Closed: March 5, 2026

Decided: March 10, 2026

STATEMENT OF THE CASE

C.B. is a six-year-old kindergartener with a disability who is a danger to himself and others as he frequently engages in disruptive, aggressive, violent behaviors including punching, hitting, kicking, yelling and threatening staff and students. May C.B. be placed on home instruction pending placement in an appropriate program? Yes. Under N.J.A.C. 6A: 14-2.7 a student with a disability may be placed on home instruction if it is dangerous for the student to remain in school.

PROCEDURAL HISTORY

On February 20, 2026, respondent, Ridge and Valley Charter School Board of Education (Ridge and Valley) filed a request for an expedited due process hearing and an application for emergency relief with the Office of Special Education (OSE) seeking an order placing C.B. on home instruction pending placement in an appropriate program

On February 23, 2026, the OSE transmitted the request for due process hearing and the application for emergency relief to the Office of Administrative Law (OAL) for hearing. The emergency relief and due process petitions were transmitted together because there is no applicable resolution period.

On March 2, 2026, C.R. opposed the application for emergency relief.

On March 5, 2026, I held the hearing on the application for emergency relief.

FINDINGS OF FACT

Based on the evidence the parties presented in support of and in opposition to the application for emergency relief, I **FIND** the following as **FACT** for purposes of this application only:

C.B. is a six-year-old boy who lives in Branchville, New Jersey. He attended preschool in his resident district of Frankford Township, where he received special education and related services. In September 2025, he began attending Kindergarten at the Ridge and Valley Charter School in Blairstown, New Jersey. C.B. is eligible for special education and related services under the eligibility category of emotional regulation impairment. C.B. has been diagnosed with attention-deficit hyperactivity disorder (ADHD), dyslexia, and pathological demand avoidance (PDA). Results from recent evaluations suggest that C.B. may be on the autism spectrum.

C.B. has had many consistent incidents of emotional dysregulation including aggression, elopement, work refusal, avoidance behaviors, and overstimulated

outbursts that interfere with his ability to learn as well as disrupting the learning environment of his classmates. C.B. struggles to maintain control despite intensive adult support, including one-to-one supervision. C.B.'s disabilities have manifested into frequent incidents of disruptive, aggressive, and violent behaviors. (P-Exhibit B.) C.B. has kicked staff, walls, and equipment; punched staff and yelled profanity; hit classmates with a stick; thrown items including a metal water bottle and chairs, and threatened staff and peers. (P-Exhibit B.)

On October 7, 2025, C.B. hit a mirror and another student. He also broke several crayons. (Ibid). On October 15, 2025, C.B. struck another student in the eye with a stick. When he was asked to stop, C.B. refused to put the stick down and kicked and punched the staff member who intervened. Later the same day he made a kicking motion toward another student's face. (Ibid.)

On November 5, 2025, C.B. was very aggressive and violent toward a staff member who tried to get him to take a strategy break when he was having difficulty. He yelled using profanity, saying "let go mother f****ers," repeatedly kicking and hitting the staff member who was trying to help him. He ran toward the parking lot screaming. Three adults were required to ensure his safety. (P-Exhibit B)

On November 11, 2025, the school proposed that C.B. undergo a Functional Behavior Assessment (FBA) to better understand his functioning and determine if he needs additional support in the classroom. C.R. agreed to the FBA. (R-Exhibit A)

On November 12, 2025, C.B. threatened to punch a staff member, refused to participate in class, yelled for extended time, kicked boxes, and tried to leave the building. (Ibid).

On January 9, 2026, C.B. was screaming and encouraging other children to scream as well. When asked to stop, his behavior escalated and he threw his metal water bottle over the deck onto the walkway below. This action endangered people on the walkway.

On January 13, 2026, C.B. repeatedly poked himself and wrote on himself with a pencil, needing many reminders not to do it. He also threatened students and used inappropriate language. He stated, "I am going to punch you in the penis," and yelled, "you're a loser," to a staff member. He also said the "f-word" to his classmates at lunch. His aides report that he has increasing difficulty regulating his body and participating appropriately in class and social situations. (ibid.)

On January 30, 2026, C.B. elbowed another child in the stomach. On the same day, he told another child that he was going to cut his hand open, tried to hit a staff member, and threatened to spray his classmates in the face with cleaning solution. He also yelled, using the "F word" again. (ibid.)

Following an IEP meeting on February 5, 2026, the charter school determined that C.B. should be in a learning and language disability (LLD) program with comprehensive specialized instruction, regulation support, reduced student to staff ratio, and consistent supervision to address C.B.'s elopement and instruction in the least restrictive environment. Toward this end, the charter school contacted Frankford Township to confirm a placement for C.B. in his school district of residence. (P-Exhibit A).

On February 9, 2026, C.B. engaged in several other concerning incidents of aggressive and unsafe behaviors. In the morning, C.B. gave the middle finger to a classmate and laughed. C.B. later lost control and ripped up the alphabet chart. When he was removed from the room to calm down, he became more aggressive. He yelled profanity at the aide and threatened to "break her bones." C.B. then physically assaulted the aide by punching her in the stomach, kicking her in the legs, and throwing a metal water bottle at her face, striking her glasses. C.B. did this while yelling, "I want to punch you. I want to kill you." (P-Exhibit B.)

On February 19, 2026, when C.B. was asked by his direct support aide to complete a task, he refused and responded by yelling, stomping on the aide's feet, and kicking her. When C.B. was removed from the room, he kicked other staff in the shins. Once in the principal's office, C.B. threw chairs, books, and files and kicked equipment.

After this incident, the charter school determined that it is no longer safe for C.B. to attend the charter school and placed him on interim home instruction. (Ibid.)

CONCLUSIONS OF LAW

This case arises under the Individuals with Disabilities Education Act (IDEA). 20 U.S.C. §§ 1400 to 1482. The IDEA is designed to assure that disabled children may access a free appropriate public education (FAPE) that is tailored to their specific needs. 20 U.S.C. § 1400(c). While the IDEA recognizes that students with disabilities should not be punished for behaviors that are a manifestation of their disability, the IDEA and its implementing regulations permit a school district to change a student's placement to an interim alternative education setting (IAES) for forty-five days on a finding that maintaining the student in his current placement "is substantially likely to result in injury to the child or to others." Here, Ridge and Valley seek emergency relief to change C.B.'s placement to an IAES for forty-five days, pending placement in an appropriate program, because the charter school believes that it is substantially likely that an injury will occur to C.B., to other students, or to staff should he remain at the charter school.

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.

Ibid.

The moving party must satisfy all four requirements. Crowe v. DiGioia, 90 N.J. 26 (1982). The moving party must also prove each of the requirements "clearly and

convincingly.” Waste Mgmt. of N.J. v. Union County Util. Auth., 399 N.J. Super. 508, 520 (App. Div. 2008).

Irreparable Harm

To obtain emergent relief, the charter school must demonstrate the risk of irreparable harm if C.B. remains at the school. “The requisite for injunctive relief has been characterized as 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 common law.’” Cont’l. Group, Inc. v. Amoco Chems. Corp., 614 F. 2d 351, 359 (D.N.J. 1980) (citations omitted)

Ridge and Valley contends that it will suffer irreparable harm because C.B engages in a chronic pattern of dysregulation, including frequent episodes of aggression and violence toward both staff and classmates, such as kicking and punching people and things and throwing items such as chairs and metal water bottles. Ridge and Valley also contends C.B.’s elopement from the building will likely result in injury to him. Finally, Ridge and Valley contends that it will suffer irreparable harm if C.B. remains in class because his chronic disruptions interfere with the education of his peers who have an equal right to be educated in a safe and secure environment.

While C.R. recognizes that C.B.’s behavior is concerning, she maintains that the assignment of a one-on-one aide would resolve the issue. C.B., however, already has a one-to-one aide throughout the school day. Yet his behaviors persist. Given C.B.’s chronic behaviors and the danger he poses to himself and others, as well as the disruptions he causes to the education of his peers, I **CONCLUDE** that Ridge and Valley will suffer irreparable harm if C.B remains at the charter school.

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

The second consideration is whether the legal right underlying the district’s claim is settled, N.J.A.C. 6A:3-1.6(b)(2), and then third is whether the district made a

preliminary showing of a reasonable probability of success on the merits. Crowe, 90 N.J. at 133. Under federal and state law, a board of education may change the placement of a disabled student on an interim basis when the current placement presents a safety risk, and the parents and district cannot agree on an appropriate placement. 20 U.S.C. §1415(k)(4)(A); N.J.A.C. 6A:14-2.7(n). In this case, the law is well settled, and the charter school has a likelihood of prevailing on the merits of the case because the charter school has shown, at least on a preliminary basis, that C.B. is a danger to himself and others, as well as a disruption to the education of his peers.

Therefore, I **CONCLUDE** that the Board meets 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 the district. Ridge and Valley argues that it is obligated to provide a safe educational environment for C.B., his peers, and their staff, but C.B.'s pattern of elopement and aggressive, violent behavior prevents them from doing so. C.R. does not dispute that C.B.'s conduct has been aggressive and even violent toward his guides and classmates, but C.R. argues that C.B. misses his friends and feels like his removal from school is punishment. She also argues that C.R. needs the structure of the school day. She argues too that the home instruction in the evening interferes with his other therapy sessions.

While C.B.'s concerns are well understood, they do not rise to the level of irreparable harm. By contrast, the charter school has demonstrated that C.B. is a danger to himself and others at school. Accordingly, I **CONCLUDE** that Ridge and Valley would suffer greater harm if the requested relief was not granted.

Having concluded that Ridge and Valley have satisfied all four prongs of the request for emergency relief, I **CONCLUDE** that Ridge and Valley is entitled to emergent relief under N.J.A.C. 1:6A-12.1(e).

ORDER

I **ORDER** that petitioner's request for emergent relief is **GRANTED**, and that C.B. is to be placed on interim home instruction for forty-five days pending placement in an appropriate program.

This decision on application for emergency relief resolves all the issues in the due process complaint. No further proceedings are necessary, and this case is now closed. If the parent or adult student believes that this decision 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. This decision is final under 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 and is appealable by bringing a civil action in the Law Division of the Superior Court of New Jersey or in the United States District Court for the District of New Jersey under U.S.C. § 1415(i)(2) and 34 C.F.R. § 300.516.

March 10, 2026 _____

DATE



CLAUDIA L. MARCHESE, ALJ

Date Received at Agency:

Date Mailed to Parties:

CLM/kl

APPENDIX

For Petitioner:

- P-1 Individualized Education Plan, dated February 5, 2026
- P-2 Emails to and from C.B. parents and the school

For Respondent:

- R-1 Letter from Ridge & Valley Charter School, dated
November 11, 2025
- R-2 Emails to and from C.B. parents and the school
- R-3 Report from Neurocognitive & Behavioral Institute, dated
February 26, 2026