



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER ON
EMERGENCY RELIEF
(CONSOLIDATED)

D.G. AND J.G. ON BEHALF OF V.G.,

Petitioners,

v.

MORRIS SCHOOL DISTRICT

BOARD OF EDUCATION,

Respondent.

and

MORRIS SCHOOL DISTRICT

BOARD OF EDUCATION,

Petitioner,

v.

D.G. AND J.G. ON BEHALF OF V.G.,

Respondents.

OAL DKT. NO.EDS 05136-26

AGENCY DKT. NO. 2026-40705

OAL DKT. NO. EDS 05665-26

AGENCY DKT. NO. 2026-40763

D.G. and J.G., pro se for petitioners-respondents

David B. Rubin, Esq., for respondent-petitioners Morris School District Board of
Education (Busch Law Group, LLC, attorneys)

Record Closed: April 15, 2026

Decided: April 16, 2026

BEFORE **ADVIA KNIGHT FOSTER**, ALJ:

STATEMENT OF THE CASE

On March 12, 2026, V.G. threw a chair and pushed through a staff member, among other things, and was suspended for four days. It is substantially likely that he will injure himself or others if he returns to school. Must V.G. be returned to his stay-put placement? No. Stay-put protection can be overcome by showing that maintaining a student's current placement is substantially likely to result in injury to himself or others. Honig, 484 U.S. at 328. 20 U.S.C. § 1415(k)(3)(A).

If a student's current placement is substantially likely to result in injury to himself or others, stay-put is not available. Honig v. Doe, 484 U.S. 305, 328 (1988).

PROCEDURAL HISTORY

On March 27, 2026, D.G. and J.G. on behalf of V.G., filed a request for due process hearing together with a temporary order for emergent relief with the Office of Special Education (OSE). In their request, the family asks for a temporary order for stay put, a return to the last-agreed-upon placement, in-school placement, and implementation of appropriate in-school supports pending resolution of the due process petition. On April 6, 2026, the OSE transmitted the case to the Office of Administrative Law (OAL) under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, and the Special Education Program, N.J.A.C. 1:6A-1.1 to -18.4. The case was docketed under OAL docket number EDS 05136-26.

On April 8, 2026, the Morris School District Board of Education (the District) filed a request for an expedited due process hearing together with a temporary order for emergent relief. In its request, the District asks for home instruction pending resolution of the expedited due process case. On April 9, 2026, the OSE transmitted the cases to the OAL under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, and the Special Education

Program, N.J.A.C. 1:6A-1.1 to -18.4. The case was docketed under OAL docket number EDS 05665-26.

On April 9, 2026, and April 13, 2026, I held prehearing conferences. On April 15, 2026, I consolidated the cases. On April 15, 2026, the parties appeared for oral argument on their motions for emergent relief.

FINDINGS OF FACT

Based on the arguments the parties made at oral argument, together with the documents the parties submitted in support of and in opposition to their applications for emergent relief, I **FIND** the following as **FACT** for purposes of these motions only:

V.G. is a sixteen-year-old special education student classified as eligible for special education and related services under the disability category “other health impairment.”

Over the years he has been diagnosed with attention deficit/hyperactivity disorder, oppositional defiant disorder, unspecified anxiety disorder, and disruptive behavior disorder.

Over the course of the year, V.G. engaged in disruptive behavior that calls into question his safety as well as the safety of others (see R-2):

(a) May 6, 2025

- V.G. refused to pick up a plastic bag that he was throwing in class.
- While picking it up, he intentionally bumped into a teacher.
- Security was called, and he pushed through the teacher a second time.
- Parents were called, and his father came to pick him up. V.G. slammed the door as they exited the building aggressively.
- Consequence: two-day out-of-school suspension.

(b) October 3, 2025

- While in art class, V.G. threw his chair under his table.
- He ignored the art teacher and left the room when she asked him to put

the chair back correctly.

- He punched a table in the hall and cursed.
- Consequence: Saturday detention.

On October 10, 2025, the District's board-certified behavior analyst, Stephanie Corona; V.G.'s case manager, Kristen Rudiger; the supervisor of special education, Carina Navarro; and, the assistant principal, Matthew Fabricant, met to develop a behavior intervention plan (BIP) and implemented additional counseling support for V.G. through the TRAIL Intern program that was approved by V.G.'s mother, with counseling twice per month.

(c) November 3, 2025

- V.G. was written up for arriving late to the 1st block for the fifth time for history class.
- Consequence: conversation and parent communication.

(d) November 17, 2025

- V.G. went into a class that was not his and confronted a student, saying, "You want to talk shit, say it to my face."
- Consequence: lunch detentions.

(e) December 12, 2025

- In Spanish class, V.G. refused to do an assignment and said, "F**k."
- Security was called, and V.G. threw papers at the teacher
- V.G. eloped from school and left the building without permission.
- Consequence: two-day out-of-school suspension.

On December 18, 2025, Fabricant and Kate Weisenseel, the guidance counselor, met with mom and reviewed the BIP with updates from additional counseling services and a new case manager, Paola Marina, who had worked with V.G. in middle school and had a good rapport with him and the family, participated. Mom gave consent to institute the BIP and V.G. was given a special pass to see his case manager or guidance counselor at any time to de-escalate when triggered.

(f) January 6, 2026

- V.G. opened an exterior door to allow a student access to the building, causing a security concern.
- Consequence: Saturday detention.

On January 8, 2026, Fabricant and Marino met with V.G. to review a behavior chart, which included his historical behaviors and consequences to provide clarity around consequences and prevent future incidents.

(g) March 5, 2026

- In math class, the teacher changed the seating chart for the class. V.G. refused to move.
- The teacher reminded him to go to his assigned seat.
- V.G. went to a different seat, but not the assigned one.
- The teacher redirected V.G. to the correct seat.
- V.G. left class without permission.
- Consequence: Saturday detention.

(h) March 12, 2026

- In art class, V.G. entered class and placed his phone case in the phone caddy.
- He was later caught using his phone in class. The teacher asked for it, and he refused.
- When the teacher said she would call security, V.G. grabbed the case from the teacher's hands and left without permission.
- V.G. went to his case manager's office, where he punched the table and started screaming.
- He then left without permission in search of his girlfriend, G.R. He went through her bag, attempting to take her phone.
- Marino was able to take V.G. back to the office.
- Due to his yelling and physically aggressive behavior, LDTC Tom Tufaro showed up to assist Marino. Assistant Principal Fabricant and School Security Person Beverly Bell also arrived on scene.
- V.G. became upset, pushed through Tufaro and Marino using his shoulder, and tried to push through Mr. Bell.
- Bell calmed V.G. and took him back to Marino's office.
- A few moments later, V.G. left without Marino's permission to confront G.R. again.
- Bell was able to take V.G. back to Marino's office. School resource officer Christopher Little and Fabricant were also called to the scene.
- V.G. came to the main office conference room, where he remained until his mother picked him up.

- Little reported that when he followed V.G. out, he was kicking the car window and punching it.
- Later on, G.R.'s father called to report that V.G. showed up at his residence to confront G.R.
- Consequence: four-day out-of-school suspension.

During the escalating events on March 12, 2026, when the LDTCs, Marino, and Tufar tried to calm V.G., he approached them with his fists clenched and his arms at a ninety-degree angle and spoke to them through clenched teeth and shook his fists with each word he spoke. (P-11.)

On March 12, 2026, after the breakup with his girlfriend, G.R., V.G. sent her persistent text messages, even after she requested space. In those text messages he asks her to get back together, or he insults her. In one text he states that she should never interact with his family again or else he would go to her house. On March 13, 2026, V.G. went to her home and threw rocks at her window. (P-7; P-11; P-12.) The police were called and a restraining order was placed. (ibid.)

The District instituted a "harassment, intimidation, or bullying" investigation where G.R. reported that V.G. was controlling and he said, "you look like a slut/whore if you wear that outfit." (P-1.) There were also reports of V.G. grabbing G.R. G.R. expressed fear regarding V.G.'s return to school. (ibid.; P-11.)

On March 13, 2026, the child study team met to propose a new individualized education program (IEP). The child study team also placed V.G. on home instruction and required psychiatric clearance to assure that "his continued presence at the high school did not pose a danger to himself or others." (District 1 at 6.)

Petitioners consented to having V.G. evaluated by a District-approved psychiatrist. On March 23, 2026, petitioners presented V.G. for the appointment.

On March 27, 2026, petitioners filed an application for emergent relief and due process petition.

From March 30, 2026, to April 3, 2026, the District was closed for spring break.

On April 7, 2026, the District received the psychiatric evaluation from Dr. Rathna Malella, who opined that there was low risk of suicide and that “there are no acute safety concerns requiring immediate intervention.” The doctor noted, however, that V.G. has a documented pattern of situational aggression and disruptive behaviors and is considered at moderate risk for behavioral dysregulation in the school setting. The doctor recommended a school-based intervention plan as more fully detailed in the doctor’s report. (Ex. B.)

On April 7, 2026, the District held an IEP meeting. At the meeting, the District noted that the psychiatrist did not consult with the District to determine if it could implement the supports the psychiatrist recommended, and that it could not implement the supports the psychiatrist recommended. As a result, the child study team proposed an IEP placing V.G. on home instruction pending placement in an indeterminant but appropriate out-of-district placement. (R-2.)

On April 8, 2026, the District held another IEP meeting to revise the proposed IEP to include additional supports and services

On April 8, 2026, the District filed an application for emergent relief to place V.G. on home instruction pending resolution of the expedited due process hearing to implement the April 7, 2026, IEP. (P-1.)

CONCLUSIONS OF LAW

The standards for emergent relief are set forth in Crowe v. DeGioia, 90 N.J. 126, 132–34 (1982), and are codified in the New Jersey Administrative Code for Education, N.J.A.C. 6A:3-1.6. They are also set forth in the rules of the Special Education Program. N.J.A.C. 1:6A-12.1. Under those special rules, the judge may order emergency relief pending issuance of the 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 the 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. 1:6A-12.1(e).]

Irreparable Harm

"Irreparable harm" is defined as the type of harm that "cannot be redressed adequately by monetary damages." Crowe, 90 N.J. at 132–33. Indeed, the purpose of emergent relief is to "prevent some threatening, irreparable mischief, which should be averted until opportunity is afforded for a full and deliberate investigation of the case." Id. at 132 (quoting Thompson ex rel. Bd. of Chosen Freeholders v. Paterson, 9 N.J. Eq. 624, 625 (E. & A. 1854)). The irreparable-harm standard contemplates that the harm be both substantial and immediate. Subcarrier Communications v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997). Harm is irreparable when there can be no adequate after-the-fact remedy in law or in equity; or where monetary damages cannot adequately restore a lost experience. Crowe, 90 N.J. at 132–33.

In this case, D.G. and J.G. argue that V.G. is suffering irreparable harm because the District unilaterally changed V.G.'s placement to home instruction and "excluded the student from school for approximately fifteen days," and he is not received counseling or other support services. The remedy for such deprivation, however, is compensatory education for any services missed. That is not irreparable. Therefore, I **CONCLUDE** that D.G. and J.G. have not shown irreparable harm.

The District, on the other hand, argues that V.G.'s behavior poses a threat to the safety of the other students, staff, and himself, as demonstrated by the escalating violent behavior and aggressions from May 6, 2025, to March 12, 2026. I agree with this

argument. V.G.'s demonstration of physical aggression—including but not limited to throwing a chair, pushing past a staff member, snatching a phone from a teacher, use of profanity, and his dramatic breakup with his girlfriend—are concerning and alarming. They show a clear threat to the safety of other students and staff irrespective of the psychiatrist's opinion, especially since the doctor did not know the threatening behavior V.G. exhibited towards G.R. after the breakup when he threw rocks at her home window. Therefore, I **CONCLUDE** that sending V.G. back to school will likely cause irreparable harm to the District and other students, and that the District has met its burden of showing this legal requirement.

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

On March 13, 2026, the District conducted an IEP meeting and placed V.G. on home instruction because it was concerned that he posed a danger to himself and others. His parents object to the placement and seek stay put. The stay-put provision under the Individuals with Disabilities Education Act (IDEA) is well settled and provides an automatic preliminary injunction, preventing a school district from changing placement from the last-agreed-upon IEP during the pendency of a petition challenging a proposed IEP. Drinker by Drinker v. Colonial Sch. Dist., 78 F.3d 859, 864 (3d Cir. 1996). The “stay-put” provision acts as an automatic preliminary injunction, the overarching purpose of which is to prevent a school district from unilaterally changing a disabled student’s placement or program. Ibid. The provision provides that during the pendency of any proceedings under this section, unless the parents or guardian otherwise agree, the child must remain in the then current educational placement. See 20 U.S.C. § 1415 (j). In Drinker, the court explained that the IDEA “substitutes an absolute rule in favor of the status quo for the court’s discretionary consideration of the factors of irreparable harm and either a likelihood of success on the merits or a . . . balance of hardships.” Drinker, 78 F.3d at 864 (citations omitted).

There are three exceptions to the stay-put provision. The first is if the parties agree to a different placement; otherwise, “the child shall remain in the then-current educational placement of the child.” 20 U.S.C. § 1415(j). The second exception arises under disciplinary infractions involving drugs, weapons, or serious bodily injury, regardless of

whether it's a manifestation of their disability. 20 U.S.C. § 1415 (k)(1)(G). The third arises by order of a judge for an alternative educational placement upon request for an expedited hearing. N.J.A.C. 6A:14-2.7(n). The third exception is relevant when a district removes a student with disabilities from school based on its belief that "it is dangerous for the student to be in the current placement" but "cannot agree to an appropriate placement" with the parent. Ibid.

To remove a student with a disability when the district maintains that it is dangerous for the student to be in the current placement and the parent and district cannot agree to an appropriate placement, the district must request an expedited hearing. N.J.A.C. 6A:14-2.7(n). A school district seeking to remove an assertedly dangerous disabled child from his or her current educational placement must show that maintaining the child in that placement is substantially likely to result in injury either to himself or herself or to others. Honig, 484 U.S. at 328.

The District's failure to request an expedited hearing before placing V.G. on home instruction constituted a procedural violation. A procedural violation "rises to the level of a denial of a [free appropriate public education (FAPE)] . . . if such violation causes substantive harm to the child or his parents." D.S. v. Bayonne Bd. of Educ., 602 F.3d 553, 564–67 (3d Cir. 2010). Substantive harm exists where the procedural inadequacies impede the child's right to a FAPE, significantly impede the parents' opportunity to participate in the decision-making process, and cause a deprivation of the educational benefit. N.J.A.C. 6A:14-2.7(k).

It is well settled in New Jersey that a safe and civil environment in school is necessary for students to learn free from disruptive and violent behavior that threatens the welfare of students and school personnel.

In this case, D.G. and J.G. argue that the District cannot unilaterally place their son on home instruction without their consent or absent a judicial order authorizing removal. The District, however, acknowledged some procedural missteps. Nevertheless, the District was concerned that maintaining V.G. in-district would substantially likely result in injury to himself or others. His pattern of oppositional, defiant, and physically aggressive

behavior toward staff, other students, and school property showed an escalation. The District sought to reduce the risk of injury to V.G. and others by instituting a BIP, providing V.G. with a pass to see his counselor or case manager to de-escalate, offering counseling twice per month, and having several meetings with the parents and V.G. to address behaviors and prevent future incidents. The District even retained V.G.'s case manager from middle school with whom he had a good rapport.

On April 8, 2026, the District filed its application for emergent relief seeking home instruction. While one could argue that the District's failure to file for an expedited hearing on the fifth day after the four-day suspension deprived V.G. of a substantive right, any loss in special education services and supports can be remedied by the institution of compensatory education for the time V.G. was without special education services and supports. Thus, this procedural violation does not constitute a substantive deprivation.

D.G. and J.G. argue that the Board-approved psychiatrist noted that there are no acute safety concerns that require immediate intervention. The psychiatrist, however, did not testify. As a result, her report constitutes hearsay. Although hearsay is admissible, a residuum of legally competent evidence must exist to support each finding of fact to an extent sufficient to provide assurances of reliability. N.J.A.C. 1:1-15.5(b). Other than the report, there is no corroborative competent proof and no residuum of legal and competent evidence to support the assertion that no acute safety concerns exist. Given my discussion of the law and the substantiated concern for the safety of the students, I **CONCLUDE** that the legal rights are well settled and that the District, not D.G. and J.G., has a likelihood of success on the merits of the case for placement of V.G. in an interim alternative educational setting (IAES) for forty-five days.

Balance of Equities

When balancing the safety and welfare of the staff and students against the hardship on V.G., I **CONCLUDE** that the welfare of the students and staff outweighs the interest of V.G.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that D.G.'s and J.G.'s application for emergency relief is **DENIED** and that the District's application for emergency relief is **GRANTED**.

This order on application for emergency relief remains in effect until June 1, 2026, or a final decision is issued on the merits of the case, whichever is sooner. 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).

April 16, 2026 _____

DATE



ADVIA KNIGHT FOSTER, ALJ

AKF/tc