

New Jersey Commissioner of Education
Final Decision

Natasha Joly,

Petitioner,

v.

Daryl Palmieri, Executive County Superintendent,
Union County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon review, the Commissioner concurs with the Administrative Law Judge (ALJ) that petitioner has failed to demonstrate entitlement to emergent relief pursuant to the standards enunciated in *Crowe v. DeGioia*, 90 N.J. 126 (1982), and codified at *N.J.A.C. 6A:3-1.6*. The Commissioner further concurs with the ALJ that petitioner fails to state a claim upon which relief may be granted.

Accordingly, the Initial Decision is adopted as the final decision in this matter. Respondent's motion to dismiss is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹


COMMISSIONER OF EDUCATION

Date of Decision: May 8, 2025
Date of Mailing: May 9, 2025

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. EDU 03000-25

AGENCY DKT. NO. 32-2/35

NATASHA JOLY,

Petitioner,

v.

**DARYL PALMIERI, EXECUTIVE COUNTY,
SUPERINTENDENT, UNION COUNTY,**

Respondent.

Natasha Joly, petitioner, pro se

Luke D. Hertizel-Lagonikos, Deputy Attorney General for respondent Daryl Palmieri, Executive County Superintendent, (Matthew J. Platkin, Attorney General of New Jersey, attorney)

Record Closed: February 18, 2025

Decided: February 19, 2025

BEFORE **ERNEST M. BONGIOVANNI**, ALJ:

STATEMENT OF THE CASE

The petitioner Natasha Joly, (Joly/Petitioner) a member of the Berkeley Heights Board of Education (BOE), requested Emergent relief on the appeal she took from the decision of the respondent Daryl Palmieri Executive County Superintendent, for Union

County (Palmieri/County) to appoint, on January 27, 2025, a fellow BOE member, Gale Bradford, as BOE President for 2025. Desiring a “quick resolution,” she sought emergent relief requesting that the appointment of Bradford be set aside and that in her place, Palmieri should appoint Joly’s choice for BOE President, in her words, the “more than qualified” and fellow BOE member, Ms. Dipti Khanna.

Ms. Joly provided no Certified evidence nor authentic documents in support of her application nor did she file a memorandum of law, outlining how she met all the standards of Crowe v Degoia for emergent relief.

Respondent provided a Certification of Palmieri in and a brief in opposition to the request for Emergent Relief. Further, respondent requested a dismissal in lieu of filing an answer. In addition to the papers filed by the parties, arguments on the motion for emergent relief and respondent’s motion for dismissal were held before me at the Office of Administrative Law on February 18, 2025, at which time the record closed. I now deny petitioner’s request for expedited relief and grant the dismissal sought by respondent.

FACTUAL DISCUSSION

All of the following contentions can accurately be described as uncontested or beyond dispute.

As set forth in Joly’s Statement of Specific Allegations and Essential Supporting facts, (Allegations) and echoed in the Certification of Palmieri, Gale Bradford was also appointed President of the BOE by Palmieri in 2024, and for the identical reasons as in 2025. In each year the Board was unable to choose among them a BOE President, in each case being split 4-4 on two candidates. In 2025, after the Board’s first regular meeting for 2025 took place on January 7, 2025, and the Board once again deadlocked and failed to choose a President, Palmieri, executing one of his required duties, this one under N.J.S.A. 18A:15-1, on January 27, 2025, appointed from among the BOE members a President, again being Gale Bradford. Palmieri Certification. paragraphs 4 and 5.

Joly's complaints were based entirely on her opinion of how Mr. Bradford performed her duties as BOE President in 2024. She said she reported many examples of Bradford's conduct, again detailed in her allegations, to Palmieri in a phone conversation with him on January 9, 2025. They included Bradford allegedly "signing a contract with the NJSBA without review by the Board," appointing herself (Bradford) to eight of the nine standing committees of the board, sending incorrect information about bills to the Press, allowing favored members who attend public hearings to comment more than the three minute period allotted each person, and creating Ad Hoc Committees that had the effect of bypassing the Standing Committees. Not only that, but Joly alleges Bradford has "created chaos, lacks knowledge of Robert's Rules, and is "robotic in her demeanor." Finally, Joly contrasted Bradford with her candidate, Ms. Khanna's alleged "right demeanor and analytical skills."

LEGAL ANALYSIS AND CONCLUSION

Regarding the standards of Crowe v. DeGioia, 90 N.J. 126 (1982), Joly stated her sought emergent relief on her claims because it was her understanding that the process included, Palmieri might take up to 20 days just to respond to the petition of Appeal once it was received (the Petition was filed February 3 and received by respondent on February 6), then the matter would be assigned to the OAL, a Judge assigned and the case would then have to work its way through the system. Rather than enduring such delays, she sought to address the standard one seeking emergent relief must meet. Regarding the Requirement of showing irreparable harm unless emergent relief is granted, Joly admitted it was not the case that she "will personally suffer irreparable harm" but rather that "Mrs. Bradford is the wrong person to be President," and "the sooner someone else [her candidate] Mrs. Khanna is appointed the better. As to whether the legal rights she claimed were settled, she candidly admitted not knowing what that means. She thought she had a likelihood of prevailing on the merits, because all of her allegations could be proved. As to balancing the equities of the parties, she alleged that eventually if Ms. Bradford remains in office, the BOE is open to "potential liability and financial loss."

As correctly stated in the respondent's legal brief, irreparable harm, by definition "must inherently be imminent, concrete non speculative and most occur in the near and not distant future". Subcarrier Commc'ns Inc. v Day, 299 N.J. 634, 638 (App Div. 1997). As a corollary to that, [C]ourts should not intervene, unless the need for equitable relief is clear, not remote or speculative." Eccles v Peoples Bank 33 U.S. 426, 431 (1948).

Here, the alleged harm could hardly be more speculative and unclear. First Joly admitted she wouldn't personally suffer any harm. Her belief was that the residents could face "potentially liability and financial loss." This is pure speculation, even assuming petitioner can assert the rights of the entire school district and certainly does not relate to any definite time in the near future where only emergent relief would be adequate. Moreover, Joly sought a "fairly quick resolution" as the appointment as Board President is only a year which might make the regular process moot. That is more accurately a request for an expedited hearing rather than an argument for emergent relief.

As to the whether the claimed legal right is well settled and the related standard of likelihood to succeed on the merits, I must agree with respondent that the only right involved in this controversy that is well settled is the respondent's right to appoint a BOE President because the BOE (for the second consecutive year) failed to agree upon a President, requiring Palmieri to himself appoint a one from among the existing BOE members. Joly's claim amounts to, that because in her opinion Bradford performed poorly last year in the position, a disgruntled or disappointed member who supported another candidate should be allowed to substitute and effectively usurp the powers and duties of the Executive Superintendent are not supported by any law cited by Joly, and it is highly unlikely there is any legal support for that untenable legal position. Thus, Joly's settled law to the extent it exists, supports respondent and with what was presented to the Court, it is far more likely that respondent, not Joly, would succeed on the merits. Finally, in balancing the equities, Board business cannot be properly conducted in the absence of a Board President. Weighing the purely speculative "harm" if emergent relief were not granted to Joly, against the district's need to have a President in place to conduct the regular business of the schools under the BOE's purview, the equities are with the respondent.

Thus, although the moving party must meet all the Crowe standards, in this case, petitioner has met none. Accordingly, her motion for Emergent Relief must be denied.

MOTION FOR DISMISSAL

The respondent filed a motion to dismiss in lieu of filing an answer to the appeal. This procedure is permitted per N.J.A.C. 6A:3-1.10.

I agree with respondent's description that the petitioner's challenge was based on her belief that her candidate, BOE member Khanna, would make a better BOE President than Bradford, the one the respondent chose. However, her preference and judgement for choosing the BOE President aside from violating the Board's right to, ordinarily, choose their President by a vote of the Board, is not based on solid evidence and certainly not on any law cited. In fact, not only did Joly not cite or allege any violation of law committed by Palmieri, but in fact she admitted during argument that Palmieri did nothing illegal but rather stated "I admit he had the legal right to do what he did." Any notion that despite the appropriate official following the law by appointing the President when the BOE failed to do so, it would be better that the public official only chooses someone based on Joly's preference, has no basis in the law.

Here the motion to dismiss is based on the "legal sufficiency of the facts alleged on the face of the complaint." Dimitrakopoulos v Borrus, Goldin, Foley Vignuolo, Hyman and Stahl, P.C. 237 N.J. 91 107 (2019). The Complaint can be dismissed for failing to state a claim by failing to "articulate a legal basis entitling plaintiff to relief. Sickles v Cabor Corp. 379 NJ Super 100, 106 (App. Div. 2005)

Petitioner's disagreements with the Superintendent's choice for BOE as stated on the face of her complaint were based entirely on her judgement of the alleged past performance of that person are not cognizable as lawful claims as respondent clearly and fulfilled his statutory duties. Therefore, the respondent is entitled to dismissal as the petitioner does not state a claim for which relief may be granted. N.J.A.C. 6A:3-1.10; See also Rule 4:6-2 (e) Accordingly the said complaint is now dismissed.

ORDER

Based on all the foregoing, I **CONCLUDE** that the request for emergent relief fails to meet any of the prongs of the Crowe v DeGioia test. Accordingly, I **ORDER** that petitioner's request for emergent relief be and is hereby **DENIED**.

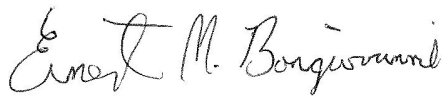
Also, based on all the foregoing I further **CONCLUDE** that the petition fails to state a claim upon which relief may be granted and I further **ORDER** that for the aforesaid reasons, the Complaint be and is dismissed.

I hereby **FILE** this initial decision with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Acting Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500. A copy of any exceptions must be sent to the judge and to the other parties.

February 19, 2025



DATE

ERNEST M. BONGIOVANNI, ALJ

Date Received at Agency:

2/19/25

Date Mailed to Parties:

2/19/25

Emb/id