305-25E
OAL Dkt. No. EDU 09171-25
Agency Dkt. No. 160-5/25

New Jersey Commissioner of Education

Order on Emergent Relief

E.B., on behalf of minor child, A.B.,

Petitioner,

v.

Board of Education of the Township of Hainesport, Burlington County,

Respondent.

The record of this emergent matter and the recommended Order of the Administrative Law Judge (ALJ) have been reviewed and considered.

Upon such review, the Commissioner concurs with the ALJ that petitioner has failed to demonstrate entitlement to emergent relief pursuant to the standards enunciated in *Crowe v. DeGioia*, 90 *N.J.* 126, 132-34 (1982) and codified at *N.J.A.C.* 6A:3-1.6.

Accordingly, the recommended Order denying petitioner's application for emergent relief is adopted for the reasons stated therein. This matter shall continue at the Office of Administrative Law with such proceedings as the parties and the ALJ deem necessary to bring it to closure.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

Date of Decision: June 13, 2025
Date of Mailing: June 16, 2025

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING
EMERGENT RELIEF
OAL DKT. NO. EDU 09171-25
AGENCY DKT. NO. 160-5/25

E.B. ON BEHALF OF A.B.,
Petitioner,
v.
TOWNSHIP OF HAINESPORT
BOARD OF EDUCATION
Respondent.

E.B., petitioner, pro se

Cherie L. Adams, Esq., for respondent (Adams Lattiboudere Croot & Herman, LLC, attorneys)

BEFORE **WILLIAM T. COOPER III**, ALJ:

STATEMENT OF THE CASE

E.B. (petitioner) brings an action for emergent relief against the Board of Education of the Township of Hainesport (respondent) challenging the imposition of a penalty imposed on her minor child, A.B., because of A.B.'s involvement in an incident with two other students that occurred on May 20, 2025. A.B. served a two-day suspension from

school on May 21, 2025, and May 22, 2025, and was barred from attending a class field trip to the Franklin Institute in Philadelphia on May 30, 2025.

PROCEDURAL HISTORY

On May 21, 2025, the petitioner was verbally advised of the penalty and the reason it was being imposed. On May 22, 2025, the petitioner appealed to the school superintendent, arguing that the imposition of a two-day suspension and the ban from the class field trip were unfair. The superintendent upheld the penalty imposed, finding that it was consistent with school policy.

On May 23, 2025, the petitioner filed a request for emergent relief at the Department of Education, Office of Controversies and Disputes, challenging the discipline imposed. The matter was transmitted to the Office of Administrative Law (OAL), where on May 23, 2025, it was filed as a contested case seeking emergent relief. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

Oral arguments regarding the application for emergent relief were conducted on May 29, 2025.

DISCUSSION AND FINDINGS OF FACT

The following facts are not in dispute, therefore, I find the following as **FACT**:

A.B. is a ten-year-old fourth-grade student attending Hainesport Elementary School.

On May 20, 2025, a fourth-grade teacher observed A.B. and two other students ingest an unknown substance in a classroom. A school counselor escorted the three students to the principal's office. The counselor also had the bag one of the students used to bring the unknown substance into the school. The three students would not identify the substance they had ingested. A State Police officer was present in the school at this time due to an unrelated matter requiring the students and staff to shelter in place.

The officer inspected the unknown substance but was unable to identify it, indicating that it had a heavy artificial smell.

Because the toxicity of the substance was unknown, emergency measures were employed; a shelter-in-place, level two, protocol was initiated until emergency services arrived. This meant that no one could be in the school hallways, and no one could enter or leave the building without express permission from administration. This process caused a disruption to students and staff.

The officer continued to engage the three students, and the student who brought the substance to school said that it was a laundry cleaning product. The three students were checked medically and then the principal contacted the parents and advised them that all three students were being sent home pending further discipline.

A.B. was given a two-day suspension, which he served on May 20 and 21, 2025. A.B. was also banned from attending the May 30, 2025, fourth-grade class trip to the Franklin Institute in Philadelphia.

Arguments of the Parties

Petitioner

Petitioner argues that she does not agree with the proposed penalty because A.B. was not the student who brought the substance to school, and because he told her that he only “licked” the substance but did not ingest it. Further, she maintains that a two-day suspension and not being permitted on the class trip is excessive.

Petitioner argued that A.B will suffer irreparable harm because:

1. The class trip is something A.B. has looked forward to from the beginning of the school year;

2. There are a number of exhibits that the Franklin Institute will be permanently closing and A.B. may not be able to see ever again;

3. Some of A.B.'s class assignments were centered on current exhibits at the Franklin Institute and A.B. will miss the opportunity to connect them with his schoolwork;

4. A.B.'s twin sister and classmates will be attending, and his inability to attend will be emotional for him.

The petitioner requests emergent relief in the form of an order permitting A.B. to attend the class trip.

Respondent

The respondent maintains that A.B. and the other students caused a major disruption to the school environment, and that the incident required two paramedic ambulance units to be dispatched from Lumberton, N.J., which were visible to the general public, causing alarm. Further, the respondent maintains that the punishment is within school-policy limits for this type of offense, and is appropriate based on A.B.'s disciplinary record. Finally, the respondent argues that the petitioner has failed to meet the criteria necessary for the granting of emergent relief.

DISCUSSION AND CONCLUSIONS OF LAW

Emergent relief shall be requested only 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 issue involves disciplinary action, thus, emergent relief can be considered.

The standards for emergent relief are set forth in Crowe v. DeGioia, 90 N.J. 126 (1982), and codified at N.J.A.C. 6A:3-1.6(b):

> 1. The petitioner will suffer irreparable harm if the requested relief is not granted;
>
> 2. The legal right underlying 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.

The petitioner bears the burden of satisfying all four prongs of this test. Crowe v. DeGioia, 90 N.J. at 132–34.

The **first consideration** is whether petitioner will suffer irreparable harm if the requested relief is not granted. "Irreparable harm is shown when money damages cannot adequately compensate plaintiff's injuries." Hornstine v. Twp. of Moorestown, 263 F. Supp. 2d 887, 911 (D.N.J. 2003) (citing Sampson v. Murray, 415 U.S. 61, 90 (1974)). "More than a risk of irreparable harm must be demonstrated." Cont'l Grp., Inc. v. Amoco Chems. Corp., 614 F.2d 351, 359 (3d Cir. 1980). "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 the common law." Ibid. (citations omitted). This was further explained by the New Jersey District Court:

> A party seeking a preliminary injunction must make a clear showing of immediate irreparable injury. Establishing a *risk* of irreparable harm is not enough. A plaintiff has the burden of proving a clear showing of immediate irreparable injury. Mere speculation as to an injury that will result, in the absence of any facts supporting such a claim, is insufficient to demonstrate irreparable harm.
>
> [Spacemax Int'l LLC v. Core Health & Fitness, LLC, 2013 U.S. Dist. LEXIS 154638 at 2 (D.N.J. Oct. 28, 2013) (internal citations and quotations omitted).]

Here, irreparable harm has not been established by the petitioner. The petitioner believes that her son serving a two-day suspension and not being permitted on the fourth-grade class trip is an excessive penalty. However, these assertions alone are insufficient to support a claim of irreparable harm. While it is recognized that A.B. likely will be disappointed in missing the class trip to the Franklin Institute, that does not support the claim that A.B. will suffer irreparable harm.

I **CONCLUDE** that the petitioner has not met her burden of establishing irreparable harm.

The **second consideration** is whether the petitioner has shown her claim to be well settled. The petitioner challenges the discipline rendered by respondent because of A.B.'s involvement in the ingestion of an unknown substance while in the classroom. The three students admitted to ingesting the substance but were not immediately forthcoming in identifying what the substance was. Their actions necessitated a school-wide shelter-in-place protocol being put into effect, and a call for paramedical services to respond to the school. These actions caused a disruption to school operations and an inconvenience to other students and staff.

Local boards of education are responsible for protecting the health, safety, and welfare of their students and ensuring the orderly conduct of the academic process. Goss v. Lopez, 419 U.S. 565 (1975). To accomplish this, such boards are empowered to establish rules of conduct and impose discipline to enforce such rules. It is established

that the actions of a board of education that lie within the area of their discretionary powers, especially as they relate to matters of student discipline, cannot be upset unless there is a showing that the discipline imposed was arbitrary, capricious, without a rational basis, or induced by improper motives. J.M. v. Hunterdon Cent. Reg. High Sch. Dist., 96 N.J.A.R.2d (EDU) 415, 419 (citing Kopera v. West Orange Bd. of Educ., 60 N.J. Super. 288 (App. Div. 1960)).

Here, the petitioner argues that the discipline imposed is excessive, while respondent counters that it is consistent with school policy.

Based upon the limited record at this stage of the proceedings, I cannot conclude that the discipline imposed was arbitrary, capricious, without a rational basis, or induced by improper motives.

I **CONCLUDE** that the petitioner has not shown that the discipline imposed was arbitrary, capricious, without a rational basis, or induced by improper motives.

The **third consideration** is whether petitioner has a likelihood of prevailing on the merits. It is well settled that the decisions of local boards of education are to stand undisturbed unless shown to be patently "arbitrary, without rational basis or induced by improper motives." J.M., 96 N.J.A.R.2d (EDU) at 419 (citing Kopera, 60 N.J. Super. 288).

Here, the petitioner argues that the discipline imposed is excessive. The respondent argues that the incident A.B. was involved in, together with the need to deter such incidents in the future, justifies the discipline rendered. The petitioner has failed to show that respondent's actions were arbitrary, capricious, without rational basis, or induced by improper motives.

I **CONCLUDE** that the petitioner has not shown a likelihood of prevailing on the merits at this point in the proceedings.

The **fourth consideration** entails a balancing of interests between the parties. Petitioner argues that the discipline issued by the respondent is excessive and will have

a detrimental impact on A.B. However, the respondent has an obligation to all the students, and the petitioner's arguments fail to recognize that A.B.'s actions had a negative impact on other students. Further, petitioner fails to recognize respondent's need to deter similar behavior in the future.

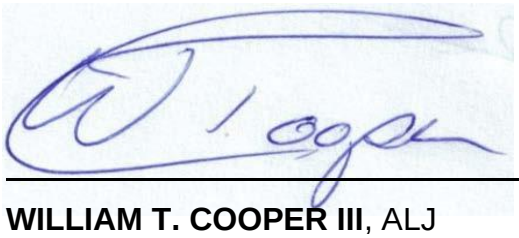
Therefore, I **CONCLUDE** that the equities weigh in favor of respondent.

Having considered the parties' arguments and submissions, I **CONCLUDE** that the petitioner has not met all four prongs of the standard for entitlement to emergency relief. For the foregoing reasons, I **CONCLUDE** that the request for emergent relief must be denied.

It is **ORDERED** that petitioner's motion for emergent relief is **DENIED**.

It is further **ORDERED** that a telephone pre-hearing conference has been scheduled for **June 30, 2025, at 2:00 p.m.** a notice will be sent separately.

This order on application for emergency relief may be adopted, modified or rejected by **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. The final decision shall be issued without undue delay, but no later than forty-five days following the entry of this order. If Commissioner of the Department of Education does not adopt, modify or reject this order within forty-five days, this recommended order shall become a final decision on the issue of emergent relief in accordance with N.J.S.A. 52:14B-10.



May 30, 2025
DATE

WILLIAM T. COOPER III, ALJ

Date Received at Agency

Date Mailed to Parties:

WTC/am

APPENDIX

Witnesses

For petitioner

None

For respondent

None

Exhibits

For petitioner

Petition for Emergent Relief and Expedited Relief and supporting documents

For respondent

Response to Emergent Relief Request, legal memorandum, and appendix