

**New Jersey Commissioner of Education**  
**Order on Emergent Relief**

M.W., on behalf of minor child, B.W.,

Petitioner,

v.

Board of Education of the City of East Orange, Essex  
County,

Respondent.

The record of this emergent matter, the sound recording of the hearing held at the Office of Administrative Law (OAL), and the recommended Order of the Administrative Law Judge (ALJ) have been reviewed and considered.

Upon 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 OAL 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: July 11, 2025  
Date of Mailing: July 14, 2025



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**FINAL ORDER DENYING**

**EMERGENCY RELIEF**

OAL DKT. NO. EDU 09388-25

AGENCY DKT. NO. 142-5/25

**M.W. ON BEHALF OF B.W.,**

Petitioner,

v.

**BOARD OF EDUCATION OF THE CITY**

**OF EAST ORANGE, ESSEX COUNTY,**

Respondent.

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**M.W.**, petitioner pro se

**Khalifah Shabazz**, Esq., Esq., for respondent

BEFORE **ANDREW M. BARON**, ALJ:

**STATEMENT OF THE CASE**

Petitioning parent challenges a decision by the East Orange Board of Education that immediately transfers B.W., who is entering seventh grade in September, from the district school known as the STEM school, to the Truth school in connection with a recent physical incident with another student and related suspension. The removal from STEM has already been implemented for the balance of this school year.

## **PROCEDURAL HISTORY**

On or about May 28, 2025, petitioner filed a Petition and Motion for emergent relief, seeking to overturn a decision by the East Orange Board of Education, ending her out-of-district enrollment at the STEM school and transferring her to the Truth school, another in-district placement for the balance of 2024-25 school year and for the beginning of the 2025-26 school year. A ten (10) day disciplinary suspension in connection with a physical altercation initiated by B.W. was also challenged.

The Department of Education 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 office, 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 rules of procedure established by the Department of Education to hear and decide controversies and disputes arising under school laws, N.J.A.C. 6A:3-1.1 to -1.17. Jurisdiction is conferred under N.J.S.A. 18A:6-9. The emergent application was filed at the Office of Administrative Law (OAL) on June 12, 2024.

Oral argument was initially scheduled for June 5th, but the record was left open to allow petitioner to submit supplemental argument. Oral argument resumed on June 9, 2025.

## **FACTUAL DISCUSSION**

The STEM school in East Orange, grades 6 through 12, is for students who demonstrate an interest and proficiency in math and science.

The Truth school, where B.W. was ultimately transferred, is more known for its emphasis on leadership.

At the end of 5<sup>th</sup> grade, B.W. applied for admission and was accepted for enrollment in STEM where she has generally performed well academically.

While B.W. generally performs well academically, respondent says B.W. continues to exhibit certain behavioral, both physical and non-compliant with school rules and objectives that are strictly adhered to by the STEM school.

Recently, for reasons unknown, B.W. got into a serious altercation with a fellow student that was of a verbal and physical nature. Seeking to quell this dispute, school officials called for an informal mediation between the students, which all believed upon conclusion was successful.

However, almost immediately after the mediation, B.W. allegedly commenced another physical confrontation, this time committing what school officials identify as an assault, which resulted in the other student having to receive medical treatment at a nearby hospital, and a school official also getting injured.

M.W., on behalf of B.W. says B.W. is the victim of bullying which school officials have not addressed.

Other than a written summary of why petitioner felt immediate relief should be granted, she did not submit any certifications, affidavits or other professional reports and/or reports from to support its request for emergent relief.

The District submitted three certifications from various members of the administrative team not so much on the merits of the relief requested, instead primarily focused on the issue that the charges brought against B.W. resulting in her removal and transfer to another school.

M.W. contends the academic curriculum at the Truth school where B.W. was transferred is less rigorous than at STEM. She seeks a return of B.W. to STEM, and a reversal of the ten (10) day disciplinary suspension.

### **LEGAL STANDARD**

Where authorized by law and where irreparable harm will result without an expedited decision granting or prohibiting some action or relief connected with a contested case, emergency relief pending a final decision on the whole contested case may be ordered upon the application of a party. N.J.A.C. 1:1-12.6(a). With respect to school laws in particular, the Commissioner has jurisdiction to hear and determine all controversies and disputes arising under school laws, except higher education, or under the rules of the State board or of the Commissioner. N.J.S.A. 18A:6-9. Where the subject matter of the controversy is a particular course of action by a district board of education or any other party subject to the jurisdiction of the Commissioner, the petitioner may include with the petition of appeal, a separate motion for emergent relief or a stay of that action pending the Commissioner's final decision in the contested case. N.J.S.A. 6A:3-1.6(a). A motion for a stay or emergent relief must be accompanied by a letter memorandum or brief which must address the following standards to be met for granting such relief pursuant to Crowe v. DeGioia, 90 N.J. 126 (1982):

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.

N.J.S.A. 6A:3-1.6(b)

### **DISCUSSION AND CONCLUSIONS OF LAW**

In petitioner's initial emergent basis statement, petitioner contends that emergent relief is required because:

B.W. will suffer irreparable harm if the requested relief is not granted based on the disruption to his education by being moved from a placement where she is thriving, to another placement, away from the social and educational network she

had thrived at the past year, where M.W. contends the academic curriculum is more rigorous than at the Truth school.

Respondent's opposition to the emergent application states, in part:

The situation involving B.W. at STEM had become intolerable, and for the safety of B.W., other students and school staff, a decision was made to transfer B.W. to the Truth school, a school known for developing future leaders.

Further, the application for emergent relief fails to meet the four prong requirements of the Crowe, case, which is the primary standard for determining if a party is entitled to emergent relief.

Accordingly, for these and other reasons, the District argues the application must be denied.

While being moved from one-district placement to another in-district placement with only a few weeks remaining in the school year is understandable concern, I **CONCLUDE** that petitioners have failed to establish irreparable harm warranting emergent relief.

In order to prevail on an application for emergent relief, a petitioner must meet all four conjunctive prongs set forth in Crowe. Since, petitioners have failed to establish irreparable harm, as well as the likelihood of success on the merits. I **FURTHER CONCLUDE** that the application for emergent relief should be denied, since the other three prongs of Crowe have also not been met at this time.

### **ORDER**

It is hereby **ORDERED** that the petitioners' application for emergent relief is **DENIED** as to both the request to return to STEM and the request to reverse the ten-day suspension.

It is **FURTHER ORDERED** that I hereby retain jurisdiction to handle the balance of the case on the merits at a later time pursuant to the transmittal from the Commissioner

The next telephone conference on this matter will be held on **Thursday, July 24, 2025 at 4:00 P.M. Toll Free Number: 1-877-951-6587 Participant Code: 96089818.**

This decision on application for emergency relief shall remain in effect until the issuance of the decision on the merits in this matter. The hearing having been requested by the parents, this matter is hereby returned to the Department of Education for a local resolution session, pursuant to 20 U.S.C. § 1415 (f)(1)(B)(i). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education.

June 10, 2025

DATE



**ANDREW M. BARON, ALJ**

Date Received at Agency

June 10, 2025

Date E-Mailed to Parties:

June 10, 2025

AMB/lr