

New Jersey Commissioner of Education
Final Decision

A.C., on behalf of minor child, Z.C.,

Petitioner,

v.

Board of Education of the Freehold Regional High
School District, Monmouth County,¹

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. 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 (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 21, 2025
Date of Mailing: July 21, 2025

¹ The Commissioner notes that the Order Denying Emergent Relief incorrectly lists the Board of Education of the Township of Jackson as the respondent.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING
EMERGENT RELIEF

OAL DKT. NO. EDU 10117-25

AGENCY DKT. NO. 177-6/25

A.C. ON BEHALF OF Z.C.,

Petitioner,

v.

BOARD OF EDUCATION OF THE

TOWNSHIP OF JACKSON,

Respondent.

A.C., on behalf of minor child Z.C., pro se

Jacob K. Mintun, Esq., for respondent (Comegno Law Group, attorneys)

BEFORE **ALLISON FRIEDMAN**, ALJ:

STATEMENT OF THE CASE

On February 6, 2025, the Freehold Regional School District transferred Z.C., a junior and three-year member of the Marlboro Highschool football team, to Colts Neck Highschool based on his parents' request causing a NJSIAA transfer penalty to be imposed. Is Z.C. entitled to emergent relief? No. petitioner must demonstrate a likelihood to succeed on the merits and a senior transfer penalty must be imposed unless the

transfer is a result of a founded Harassment Intimidation Bullying complaint. N.J.A.C. 6A:3-1.6(b); NJSIAA By-Laws section M(3)(7) and Crowe v. DeGioia, 90 NJ 126 (1982).

PROCEDURAL HISTORY

On June 8, 2025, petitioner's mother, A.C., filed a request for emergent relief with the Department of Education (DOE) requesting a determination by the DOE Commissioner that the Freehold Regional School District (FRSD) notify the New Jersey State Interscholastic Athletic Association (NJSIAA) that Z.C.'s transfer was a result of an HIB-law exception to the NJSIAA senior-transfer rule so that the twenty-two-day penalty would not be imposed. Additionally, the parents seek an order directing that the FRSD provide either transportation or a parking pass to Z.C. as emergent relief.

On June 9, 2025, the DOE transmitted the case to the Office of Administrative Law, under N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -23.

On June 13, 2025, the parties appeared for oral argument on the motion for emergent relief.

FINDINGS OF FACT

I **FIND** the following as **FACT**:

Z.C., a junior at Marlboro High School, has played for the school football team for the past three years. During the fall 2024 season, the coach changed Z.C.'s position to second-string quarterback from first string. This change, as well as the manner in which the coach informed Z.C. of the change, negatively affected Z.C.'s mental health. (P-3.) Z.C. became alienated socially. He also began missing school and quit the basketball team. (P-10.)

In January 2025, Z.C. began therapy with psychologist Tom Gambino, Ph.D. (P-6.) During this time, Z.C.'s parents began to speak to the school about transferring Z.C.

to another high school within the Freehold Regional School District. (R-A; P-10.) At no time did Z.C.'s parents request a 504 accommodation.

On January 10, 2025, A.C. had a conversation with Michael Mendes, the director of Safety, Operations, and Security for the FRSD, regarding A.C.'s request to transfer Z.C. Mendes explained what would be needed, and the consequences of a transfer. (Ibid.) Specifically, Mendes explained that the FRSD would not provide Z.C. with transportation. Mendes also explained that Z.C. would be subject to a transfer penalty as required by the NJSIAA. (Ibid.)

On February 3, 2025, A.C. gave the FRSD a letter from Gambino supporting the transfer. (P-6.) Dr. Gambino did not mention harassment or bullying as a cause of Z.C.'s mental-health issues. On February 6, 2025, Z.C. and his parents were notified by letter that their transfer request was approved. (R-G.) The letter of February 6, 2025, reiterated the consequences of Z.C.'s transfer, again specifying that transportation would not be provided for the new placement and that Z.C. would be subject to the NJSIAA penalty regarding senior transfers. (Ibid.) The letter outlines that the NJSIAA penalty would impose a twenty-two-day suspension from participation on the Colts Neck High School football team for the beginning of the 2025–2026 school year. (Ibid.) On February 7, 2025, A.C. emailed a completed HIB form to Nicole Hazel, Ed.D., superintendent of the FRSD. (P-A.)

On February 10, 2025, despite knowing the consequences of the NJSIAA penalty and no transportation, Z.C. became a student at Colts Neck High School. (R-A.) On February 11, 2025, Z.C. provided a statement to complete the HIB investigation request form filed by A.C. on February 7, 2025. On March 14, 2025, the FRSD Board of Education determined that the allegation was unsubstantiated because none of the behaviors reported fell within the statutory definition of HIB.

As of February 10, 2025, upon transfer, Z.C. was no longer provided with transportation and the NJSIAA senior-transfer penalty was imposed for the following school year's football season. Z.C. knew of these consequences in January 2025 when his parents first inquired what would be needed for Z.C. to transfer to another high school

within the Freehold Regional School District. District policy dictated that juniors are not allowed to park on the high school campus. Not having transportation and not being allowed to drive to the high school has caused hardship for Z.C. in attending after-school activities; however, he has been able to attend school.

CONCLUSIONS OF LAW

There are four requirements a petitioner must meet for emergent relief. N.J.A.C. 6A:3-1.6(b); Crowe, 90 N.J. 126. “A preliminary showing of a reasonable probability of ultimate success on the merits” is one of the four requirements. Crowe, 90 N.J. at 133. To be successful on the merits here, the petitioner must show that the HIB exception applied to Z.C. When a student transfers prior to their senior year after playing three seasons of the same sport, the player is subject to a twenty-two-day period of suspension from participating in the sport. (R-B.) An exception will be made for HIB transfers. Id. at 39.)

In this case, Z.C.’s parents began the conversation with the district regarding a transfer for Z.C. in January 2025. On February 3, 2025, Z.C.’s parents provided the documentation necessary for the FRSD to grant the transfer on February 6, 2025. The next day, February 7, 2025, A.C. filed a HIB complaint form. The HIB complaint was investigated, and the FRSD Board of Education voted and determined the HIB allegation to be unsubstantiated. The Board found no facts to support the allegation that Z.C. was targeted for a personal identifying characteristic. No appeal of the FRSD Board of Education’s unsubstantiated finding was filed. Moreover, if the HIB allegation were deemed founded, the senior-transfer penalty would still apply because the transfer was at the request of the parents prior to the filing of a HIB complaint, and thus the transfer was not a result of the HIB allegation. A.C. additionally argued that the NJSIAA transfer penalty fails to consider other forms of bullying and that the NJSIAA rule as enforced is improper. This, however, is not the proper forum for that argument and the FRSD has no authority to alter how or why the transfer penalty is applied. The penalty is required by NJSIAA rules, and those rules are imposed upon the FRSD. I **CONCLUDE** that Z.C. has not shown a likelihood of success on the merits in support of the request for emergent relief.

Another requirement petitioner must meet is that there will be irreparable harm if relief is not granted. N.J.A.C. 6A:3-1.6(b); Crowe, 90 N.J. 126. Participation in extracurricular sports is not a fundamental right, it is a privilege. “[T]he Commissioner has repeatedly held that students do not suffer irreparable harm if they are prohibited from participating in extracurricular activity, including sport activities.” S.L. ex rel. A.L. v. Bd. of Educ. of W. Orange, EDU 1729-03 (Mar. 11, 2003), adopted, Comm’r (Apr. 15, 2003), <https://njlaw.rutgers.edu/collections/oal/> (citing Bd. of Educ. of Trenton v. N.J.S.I.A.A., 91 N.J.A.R.2d (EDU) 158; Elmwood Park Bd. of Educ. v. N.J.S.I.A.A., 94 N.J.A.R.2d (EDU) 106). “Indeed it has been held that participation in an extracurricular activity is not a fundamental right under the federal or state constitution.” Ibid. (citing Camden Co. Bd. of Educ. v. N.J.S.I.A.A., No. A-2802-91T2 (App. Div. 1992)). Harm is generally considered irreparable in equity if it cannot be redressed adequately by monetary damages. Crowe, 90 N.J. at 133.

Here, petitioner claims that the NJISAA penalty will cause irreparable harm to Z.C.’s college prospects and deny him the opportunity to establish himself as a leader. However, denial of participation does not result in irreparable harm. In this case, the penalty is temporary. Z.C. will be able to play, assuming he tries out and makes the team. Because Z.C. has not shown irreparable harm, I **CONCLUDE** that petitioner has not proven by a preponderance of the evidence that he is entitled to the emergent relief requested.

Additionally, petitioner has failed to demonstrate irreparable harm when the FRSD did not provide a parking permit to Z.C. Z.C. has been able to attend school and even after-school events, although with some hardship. In the event Z.C. used a car service, repayment of the cost could compensate for that hardship. Additionally, here the parents were told that if the FRSD agreed to transfer Z.C. transportation would not be provided. The petitioners agreed to this condition when Z.C. began to attend Colts Neck High School. Therefore, I **CONCLUDE** that irreparable harm has not been shown.

Accordingly, I **CONCLUDE** that the petitioner has failed to meet the irreparable-harm standard and has not shown a likelihood of prevailing on the merits at a plenary hearing as required by N.J.A.C. 6A:3-1.6(b) and Crowe, 90 N.J. 126.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the motion for emergency relief is **DENIED**.

I further **ORDER**, this case be scheduled within thirty days for a conference to address the underlying matter.

This order on application for emergency relief 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. The final decision shall be issued without undue delay, but no later than forty-five days following the entry of this order. If the **ACTING 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.

June 16, 2025

DATE


ALLISON FRIEDMAN, ALJ

Date Received at Agency:

June 16, 2025

Date E-Mailed to Parties:

AF/ml

APPENDIX

Exhibits

For Petitioner

- P-1 Email conversations from February 7, 20, and 25 of 2025
- P-2 Email from Z.C. to Coach Delgado October 1, 2024
- P-3 November 27, 2024, email to coach Delgado
- P-4 Response to the email of November 27, 2024
- P-5 A.C.'s timeline
- P-6 Psychologist's note suggesting transfer
- P-7 Attorney Siclari's correspondence with NJSIAA on Z.C.'s behalf
- P-8 Letter from Coach Spengel
- P-9 Statement from Z.C.
- P-10 Certification from A.C.

For Respondent

- R-A Certification from Michael Mendes
- R-B NJSIAA By-Laws
- R-C NJSIAA By-Laws page 11
- R-D February 3, 2025, A.C. email to FRSD
- R-E Letter from psychologist Thomas Gambino
- R-F A.C. timeline
- R-G February 6, 2025, letter to A.C. approving of the transfer
- R-H HIB form 338
- R-I HIB allegations
- R-J February 11, 2025, Z.C. statement for HIB complaint
- R-K February 18, 2025, A.C. emails to Michael Mendes
- R-L February 16, 2025, David Bleakly, principal of Marlboro High School to A.C.

- R-M Board of Education HIB notification of unfounded HIB complaint to A.C.,
March 14, 2025
- R-N HIB investigation report

- R-O FRSD Board Policy 5514—student cars
- R-P Student Handbook—student parking policy
- R-Q April 30, 2025, email regarding Z.C.'s HIB statement
- R-R June 5, 2025, email regarding Z.C.'s subject to the transfer penalty