

New Jersey Commissioner of Education
Order on Emergent Relief

K.M., on behalf of minor children, K.M. and N.S.,

Petitioner,

v.

Board of Education of the Township of East
Brunswick, Middlesex 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. 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: December 4, 2025
Date of Mailing: December 4, 2025



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING

EMERGENCY RELIEF

OAL DKT. NO. EDU 18606-25

AGENCY DKT. NO. 366-10/25

**K.M. ON BEHALF OF HER MINOR
CHILDREN K.M. AND N.S.,**

Petitioner,

v.

**BOARD OF EDUCATION OF THE
TOWNSHIP OF EAST BRUNSWICK,**

Respondent.

K.M., petitioner, pro se

Janice V. Arellano, Esq. and **Frances L. Febres**, Esq. for respondent (Clearly,
Giacobbe, Alfieri, Jacobs, LLC, attorneys)

Record Closed: November 10, 2025

Decided: November 12, 2025

BEFORE **ADVIA KNIGHT FOSTER**, ALJ:

STATEMENT OF THE CASE

On October 23, 2025, petitioner, K.M. on behalf of K.M. and N.S., requested home instruction from respondent, East Brunswick Board of Education (Board), but provided no

proof of irreparable harm. Is petitioner entitled to emergent relief? No. To be entitled to emergent relief, a petitioner must prove, among other things, that the petitioner will suffer irreparable harm if the relief is not granted. N.J.A.C. 6A:3-1.6(b).

PROCEDURAL HISTORY

On October 23, 2025, petitioner requested temporary home instruction for her children who attend Memorial Elementary School in East Brunswick Township. On October 27, 2025, the principal of the school, Cheryl Jones, denied the request. On October 28, 2025, petitioner filed a request for emergency relief with the New Jersey Department of Education (DOE). On October 28, 2025, the DOE 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 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. On November 10, 2025, I held oral arguments and closed the record.

FINDINGS OF FACT

Based upon the documents the parties provided in support of and in opposition to the application for emergency relief, I **FIND** the following as **FACT** for purposes of this application only:

K.M. is the parent of K.M., a second-grade student, and N.S., a kindergarten student, at Memorial Elementary School in East Brunswick Township.

In early April 2025, K.M. reported chronic abuse by her mother to Ashley Rose, the student assistant specialist at the school.

On April 9, 2025, Rose reported the abuse to the New Jersey Department for Children Protection and Permanency (DCPP).

In April 2025, petitioner requested home instruction for K.M. and unenrolled N.S., who was pre-registered for kindergarten.

On or about September 17, 2025, petitioner enrolled and registered K.M. and N.S. for the 2025–26 school year.

On October 9, 2025, petitioner corresponded with several school staff including Rose; Danielle Blalock, her supervisor; and Jones. In her correspondence, petitioner complained about Rose’s interaction and communication with K.M. “for non-emergency reasons” about “family matters.” Petitioner also complained that Rose’s reporting to the DCPD of child abuse caused “stress and instability” to her family. (See Ex. A of respondent’s brief.)

On October 10, 2025, the school nurse contacted petitioner regarding K.M. tripping in gym class. (Ex. B.) Petitioner sought clarification surrounding the incident from school staff by email, and various staff provided a detailed account of the game they were playing at gym when K.M. tripped. (Ibid.)

On October 10, 2025, at dismissal, petitioner arrived with an unidentified male who asked staff for their first and last names and took photos. A school administrator reported the incident to the school, district security, the central office administration, and the East Brunswick Police Department. (Ibid.)

On October 13, 2025, the school nurse called petitioner and left a voicemail informing her that another student hit K.M. in the back of the head while the student was walking to the lunchroom and emailed petitioner the injury report. (Ibid.)

On October 15, 2025, the school nurse called petitioner and left a voicemail informing her that K.M. fell on her left knee when she was running with other students on the playground and emailed petitioner the injury report. The school nurse also informed petitioner that K.M. fell on mulch and emailed petitioner that injury report. (Ibid.)

On October 16, 2025, the school nurse called petitioner and left a voicemail informing her that N.S. fell and another student stepped on his leg when they were playing tag at recess and provided the injury report. (Ex. C.)

On October 16, 2025, petitioner emailed Jones a “Notice of Intent-Safety Concerns for My Children” with a copy to Victor Valeski, the superintendent. (Ibid.)

On October 21, 2025, petitioner requested the counseling notes from Blalock. (Ibid.)

On October 22, 2025, Jones acknowledged receipt of the “Notice of Intent-Safety Concerns for My Children.” (Ibid.)

On October 22, 2025, petitioner sent an email identifying the male who exited her car on October 10, 2025, at dismissal. (Ex. D.)

On October 23, 2025, petitioner formally requested temporary home instruction.

On October 24, 2025, Jones responded to the request for home instruction via email and provided the District Policies 2412 and 2481 outlining the protocol for requesting home instruction. (Ex. E.)

The Board has an approved safety and supervision plan under District Policy 8420 Emergency and Crisis Situations. (Ex. F.)

K.M. and N.S. have been absent from school since October 24, 2025, and petitioner is reporting absences until home instruction is approved.

CONCLUSIONS OF LAW

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 under 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.A.C. 6A:3-1.6(b).]

Petitioner Will Not Suffer Irreparable Harm

In Crowe, the New Jersey Supreme Court found that irreparable harm is that which "cannot be redressed adequately by monetary damages." 90 N.J. at 133. 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 also contemplates that the harm be both substantial and immediate. Subcarrier Commc'ns v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997).

In this case, petitioner argues that her children will suffer irreparable harm if they are required to attend school but provides no proof of irreparable harm. In support of her argument, she asserts that respondent has neglected and retaliated against her children but again provides no proof. Petitioner has not shown any immediate or substantial harm. Petitioner also asserts that the reporting to DCPD has caused stress to the family and

has adversely impacted the stability of the children and their family dynamic but has not provided proof of irreparable harm. Since petitioner has provided no proof of irreparable harm, I **CONCLUDE** that petitioner failed to establish any.

The Legal Right is Settled

Petitioner's request for home instruction is settled law. Home instruction is defined as "the provision of one-to-one, small group, or online instruction in the student's place of residence or other appropriate setting due to a health condition [or] need for treatment" or exclusion from general education for conduct or students whose behavior makes it unsafe for them to be in a traditional school setting. N.J.A.C. 6A:16-1.3. The school district must provide home instruction for general education or special education students who are confined to their homes or alternate settings due to a temporary or chronic health condition. N.J.A.C. 6A:16-10.1(a). District Policy 2412 Home Instruction Due to Health Condition follows state law and provides instructional services to an enrolled student who is confined to their home or another setting due to a temporary or chronic health condition. (Ex. E.) Likewise, District Policy 2481 Home or Out of School Instruction for a General Education Student for Reasons Other Than a Temporary or Chronic Health Condition follows state law and provides instructional services to an enrolled student who, per a court order, is placed on short-term or long-term suspension or who is awaiting an alternate educational placement. (Ibid.)

The New Jersey Department of Education ensures the safety and protection of all New Jersey school students, and this initiative is well-settled. Each school district must institute a comprehensive safety and security plan in its public elementary and secondary schools including supportive services for staff, students, and their families. N.J.A.C. 6A:16-5.1(a). "The chief school administrator shall consult with law enforcement agencies, health and social services provider agencies, emergency management planners and school and other community resources, as appropriate, in the development of the school district's plans, procedures and mechanisms for school safety and security." Id. at (b). Here, the Board followed the state law policy for the safety and security of its students in its revised School District Policy 8420 adopted by the Board meeting on September 18, 2025. (Ex. F and G.)

When there is reasonable cause to believe that child abuse has occurred, mandatory reporting is required under the safety and security provisions. Also, N.J.S.A. 9:6-8.10 provides that any person having reasonable cause to believe that a child has been subjected to abuse must report the same immediately to the Division of Child Protection and Permanency. Also, staff and volunteers of the Board of Education, including but not limited to employees and interns have no discretion in reporting cases where there is reasonable cause to believe child abuse has occurred and must cooperate with the appropriate law enforcement and child welfare authorities pursuant to N.J.S.A. 18A:36-25 and N.J.A.C. 6A:16-11.1; N.J.S.A. 9:6-8.14.

If a parent or eligible student believes the student's record is inaccurate, he or she may ask the educational institution to amend the record law under the Family Educational Rights Privacy Act (FERPA) 20 U.S.C. § 1232g(a)(2). Therefore, this right to request an amendment of students' education records is settled law.

Petitioner's claim that the Board abide by communication and documentation laws is not settled law since petitioner fails to state with specificity any laws the Board did not follow and has not provided any evidence of noncompliance.

Petitioner also seeks confirmation that no bias or retaliation will occur but fails to state a claim or facts that demonstrate that the Board showed bias or retaliation against the students.

Petitioner Failed to Show a Likelihood of Prevailing on the Merits

In this case, petitioner fails to meet any criteria for home instruction. Petitioner did not demonstrate that her children suffer from a temporary or chronic health condition requiring confinement to treatment at home or at an alternate setting. Likewise, petitioner did not demonstrate that her children were suspended or placed in an alternate educational setting. Petitioner failed to demonstrate that the Board did not follow the safety and security protections under the law and New Jersey Educational regulation or that the children's injuries were the result of targeted incidents. Petitioner outlined one

incident on October 15, 2025, where the school nurse notified her the next day after an injury to K.M., but the nurse did not receive notification of an injury until the day after the injury. While there may be one injury that occurred on October 22, 2025, where petitioner did not receive timely notice on the date of the injury, that does not establish negligence or any noncompliance to the Board's safety protocol. If petitioner's belief about failure to comply with communication and documentation law is related to the Board's notification of DCPD of a reasonable cause to believe child abuse occurred, the Board has no discretion and must report such cases. Petitioner also requests correction of inaccurate or incomplete records without citing a specific regulation or statute. The relief sought regarding the amendment of a police report is not a cognizable claim that can be brought under the New Jersey Department of Education, and therefore, petitioner fails to state a claim where relief is available. To the extent petitioner is referencing the right to request an amendment of her children's education records under FERPA, petitioner failed to show she made the request and the Board refused to make the amendment. Given the findings of fact and conclusions of law, I **CONCLUDE** that petitioner failed to show a likelihood of success on the merits.

Balance of Equities

Requiring a board to provide home instruction whenever a parent disagrees with the safety precautions of a school is unduly burdensome to a school district in addition to being inconsistent with N.J.A.C. 6A:16-5.1(a). Moreover, this remedy is not available here since K.M. and N.S. do not fit the criteria for home instruction. Requesting that the Board change its safety and prevention policy whenever a parent disagrees with the administration of one or more of the policies is also unduly onerous and burdensome and would undermine the purpose of cohesion with law enforcement and other safety personnel causing disruption in the continuity and application of the safety guidelines. Therefore, I **CONCLUDE** that the balance of equities favors the Board.

For the reasons set forth above, I **CONCLUDE** that the petitioner has not met the standards for emergency relief.

ORDER

I **ORDER** that petitioner's application for emergent relief seeking an order for home instruction is **DENIED**.

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.

November 12, 2025 _____

DATE

A handwritten signature in cursive script, reading "Advia Knight Foster", written over a horizontal line.

ADVIA KNIGHT FOSTER, ALJ

AKF/tc