

115-26E
OAL Dkt. No. EDU 02297-26
Agency Dkt. No. 038-02-26

New Jersey Commissioner of Education
Order on Emergent Relief

Luis A. Salcedo,

Petitioner,

v.

New Jersey Department of Education, Office of
School Bus Safety,

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: March 30, 2026
Date of Mailing: March 30, 2026



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING

EMERGENT RELIEF

OAL DKT. NO. EDU 02297-26

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LUIS A. SALCEDO,

Petitioner,

v.

**NEW JERSEY DEPARTMENT OF
EDUCATION, OFFICE OF SCHOOL
BUS SAFETY,**

Respondent.

Luis A. Salcedo., petitioner, pro se

David L. Kalisky, Deputy Attorney General, (Jennifer Davenport, Acting Attorney General of New Jersey, attorney) for respondent

BEFORE **ERNEST M. BONGIOVANNI, ALJ**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

The petitioner, Luis A. Salcedo (Salcedo/petitioner) challenges the Department of Education, Office of School Bus Safety (DOE/respondent) determination that on January 23, 2026, a child was left on the school bus to which he was assigned as bus driver notwithstanding that N.J.S.A. 18A:39-28 et. Seq. which advised him as bus driver to conduct a visual inspection at the end of his transportation route to assure no pupil

has been left on his bus, and for which his school bus "S" endorsement be suspended for a period of six (6) months.

His appeal of this Action has suspended the imposition of this suspension until his case is heard. However, petitioner asks, pursuant to N.J.A.C. 6A:3-1.6 et. seq., for an order for emergent relief which would grant or order, among other things 1) "fully vacate" the suspension of the S endorsement 2) that his three years of service with no violations be considered 3) that a six month suspension would "result in loss of employment and significant financial hardship" and 4) that remedial measures such as more training and monitoring be imposed instead of the suspension.

Here he seeks a stay from respondent's action and claims his request for relief is supported by the standards for emergent relief pursuant to Crowe v DeGioia, 90, N.J. 126 (1982) and N.J.A.C. 6A:3-1.6. The underlying appeal was transmitted to the Office of Administrative Law (OAL) on February 6, 2026 with instructions that the merits of the appeal be addressed once the request for emergent relief has been decided. Briefs and statements of uncontested facts were received, and I have determined there is practically no dispute whatsoever regarding essential facts in this action for emergent relief. Oral Argument was heard February 17, 2025, and the parties were given an additional day to cite previously unsubmitted case and statutory law supporting their arguments. Having received none, the record closed February 18, 2026. For the reasons which follow, I now deny the request for emergent relief and determine that case shall be set down for further hearings.

Petitioner argues he followed the correct procedure as a bus driver dropping off children at school, at the stop that occurred at a school in Woodland Park, New Jersey at approximately 8:10 a.m. on January 23, 2025, after he was done operating his bus on Bus Route R127. Although petitioner said he followed the correct procedure, he did not explain those procedures in his moving papers but did explain the procedures he followed during oral argument on the motion. oral argument on his motion

He stated the school his aide who was with him the entire trip assisted by getting off the bus at the school stop and staying behind the bus to keep children to watch them

depart and go to the school. Although there seemed to be no counting system in effect the aide did not alert him to anything amiss. Nevertheless, when he proceeded back to the bus parking lot at 8:40, and parked his bus, he activated the “child safety button, which resulted in his realization that a pupil Amir Brown was still on the bus. Petitioner noted that the child was never left alone on the bus despite his not knowing the child was there except when he parked the truck and transferred to another bus after realizing that the pupil needed to be transferred back to the school by another bus driver.

Petitioner states that the suspension of his school bus (S) endorsement will result in a loss of employment and significant financial hardship, that he has driven a school bus for three years without any other incident and that the respondent could provide less onerous remedies like requiring additional training.

The respondent argues that notwithstanding Salcedo’s statutory obligation to conduct a visual inspection at the end of his transportation route to assure that no pupils remain on the bus, one child was left undiscovered and still on the bus. This statutory obligation may indeed be a strict liability statute although that was not specifically pleaded by the respondent, perhaps as it has not had sufficient time to file their pleading to the underlying petition. In any event the respondent points out that the 6 months suspension of the license endorsement is mandatory, which would indicate the bus driver is held to a strict liability standard in this regard. In any case, here Salcedo admitted that he did not perform any final inspection of his bus on the last stop of his transportation route ending at the school on January 23, 2026. In his moving papers he even admits had he done “an inspection of the bus prior to departing the school premises would have further insured that no students remained on board.”

Motion for Emergent Relief

The moving party must demonstrate by clear and convincing evidence that he is entitled to emergent relief, the standards for granting such relief which are governed by Crowe v. DeGioia, 90 N.J. 126 (1990).

The petitioner has the burden of establishing all of the above requirements in order to warrant relief in their favor. D.I. and S.I. on behalf of T.I. v. Monroe Township Board of Education, 2017 N.J. Agen LEXIS 814, 7 (OAL Docket No. EDS 10816-17, October 25, 2017). The moving party bears the burden of proving each of the Crowe elements “clearly and convincingly.” Waste Mgmt. of N.J. v. Union Cnty. Utils. Auth., 399 N.J. Super. 508, 520 (App. Div. 2008).

1. Did petitioner demonstrate substantial immediate and irreparable harm?

First here the harm appears to be purely the loss of possible future income. Purely economic loss, even six months possible loss of income is not generally considered irreparable, and petitioner has not argued he couldn't make up the loss by some other way such as different employment. Under Crowe, 90 NJ at 132-133, harm is generally considered irreparable if it cannot be adequately redressed by monetary damages. In other words, it has been described as “substantial injury to a material degree coupled with the inadequacy of money damages.” Judice's Sunshine Pontiac v. General Motors Corp., 418 F.Supp. 1212, 1218 (D.N.J. 1976) (citation omitted). In any event we have no idea when the penalty will have any effect on petitioner because his filing of this appeal has barred any action against his license until the entire matter is concluded by the litigation process. Therefore, any loss if there is one is not “imminent” with or without a stay. I find the entire issue of immediate and irreparable harm to be mere speculation at this point.

2. Is Petitioner likely to prevail on the Merits of the Claim and 3, is there a legal right underlying the petitioner's claim well settled.

No. At this stage it appears Salcedo will have a difficult time meeting this challenge. He has cited no supporting law, e.g. whether he should be held to a mere “negligence standard.” Further Salcedo, in his motion admitted he failed to make what appears to be his statutory obligation to personally make a visual inspection at his last stop while dropping off the students and even admits if he had the pupil probably wouldn't have been left on the bus. See N.J.S.A 18A39-28 Also, the statute provides that “In the event that after notice and opportunity to be heard a school bus driver is

found to have left a pupil on the school bus at the end of his route, his school bus endorsement shall be a. suspended for six months for a first offense...” N.J.S.A.18A38-29. Even if an appeal is taken from the imposition of the penalty the only issue on appeal other than whether it was a first offense would be “did the driver leave a student on the bus after finishing his route.”

For the same reasons, the legal right underlying petitioner’s claim while well settled is settled on the side of respondent, and thus petitioner fails to establish three of the four standards under Crowe.

As petitioner must meet all four standards under Crowe, and has failed the first three as described, I refrain from determining whether the equities are balanced and if so if petitioner suffers greater harm than respondent if the requested relief is not granted.

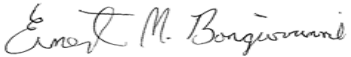
ORDER DENYING EMERGENCY RELIEF

Under the circumstances, I **CONCLUDE** that the petitioner has not met the burden of establishing a right to emergent relief as he failed to prevail on any of the four “prongs” of Crowe where he is required to prevail on all of them to be entitled to relief. Therefore, all emergent relief sought is **DENIED**.

This Order on application for emergency relief may be adopted, modified or rejected by the **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 **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.

February 19, 2026

DATE



ERNEST M. BONGIOVANNI, ALJ

Date Received at Agency

2/19/26

Date Mailed to Parties:

2/19/26

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