

139-26E
OAL Dkt. No. EDU 04154-26
Agency Dkt. No. 063-02-26

New Jersey Commissioner of Education
Order on Emergent Relief

M.M.D.,

Petitioner,

v.

Roselle Board of Education, Union 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: April 21, 2026
Date of Mailing: April 22, 2026



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING
EMERGENT RELIEF

OAL DKT. NO. EDU 04154-26

AGENCY DKT. NO. 063-02-26

Ma. M.,

Petitioner,

v.

**ROSELLE BOARD OF EDUCATION,
UNION COUNTY,**

Respondent.

Ma. M., petitioner pro se,

Bryant L. Horsley, Jr. Esq., for respondent (Shabazz and Woolridge Law
Group, attorneys)

BEFORE ERNEST M. BONGIOVANNI, ALJ

STATEMENT OF THE CASE

The petitioner, Ma. M. seeks an emergent order to reverse respondent's (hereinafter District" or "School") actions in restricting accessing in what was called a "ban" by both her and respondent Roselle Board of Education, Ma. M., identified that way to avoid confusion with the identify of her daughter Me. M., petitioned the Office of Special Education Policy and Dispute Resolution in the New Jersey Department of Education, pursuant to N.J.A.C. 6A:3-1.6 et. seq., for an order for emergent relief, identifying at the time of the application was made to the DOE was to "arrange a

meeting with Superintendent Nathan L. Fisher and allow me to attend, my daughters school (Kindergarten Success Academy) and allow to attend parent meetings and school events.”

PROCEDURAL HISTORY

On February 19, the 2026 petitioner filed the pro se Petition of Appeal seeking the aforesaid Relief, pursuant to N.J.A.C. 6A:3-1.6 et seq, although no Certification by Ma. M. was provided, and the matter was transferred to the Office of Administrative Law on March 11, 2026. After a short delay was caused by the petitioner and respondent appeared in Court prepared to call witnesses, the requests of for same were denied, and the parties were given additional time, respondent to supplement one certification by the School Superintendent with a second by the school principal, and the petitioner more time to prepare proper certifications and certified exhibits, along with providing a legal argument address the issues of Crowe v. DeGoia, which petitioner failed to provide. The emergent hearing was held on March 20, 2026, at which time the record closed.

FACTUAL DISCUSSION

The problem in granting relief to petitioner, the first being that she did not directly with factual arguments based on law, address the standards for emergent relief and thus could not advance a legal justification for same. Second the petitioner provided no factual certified evidence whatsoever. She did provide about 30 pages of emails and similar communications mostly between her and school officials, however none of those “Exhibits” (they were not properly submitted as exhibits) helped advance her argument that she is entitled to emergent relief from the school’s actions. In fact, although when asked about the respondent’s factual allegations supporting their actions, petitioner just said “that’s not true.” Such denials are not entitled to much weight as she failed to provide certified evidence by anyone supporting her.

Further none of the documents she submitted even indicated a serious factual dispute about who the District’s main exhibits, being the First and Second Restraining

Orders issued by a Family Court Judge and the certifications by the Superintendent, and the principal of the school that is alleged by the petitioner to be violating her rights.

The facts concern the controversy arising primarily from a family court custody battle between Ma. M and her husband J.L. can their child Me. M., age 5. For school year, 2025-2026, Me. M., had been attending the Roselle public Kindergarten, called the Kindergarten Success Academy. A summary of the pertinent evidence per their certifications and attached exhibits presented is as follows, and I **FIND** the following as **FACTS**:

1. An “amended Final Restraining Order” was entered by a Superior Court Chancery Division Family Part Judge on or about October 3, 2025 concerning marital/parental rights and responsibilities of the parents Ma. M., and J.L. regarding their daughter Me. M.
2. That Order gave J.L., the father primary residential custody allowing him to enroll their five-year-old into school. The Order, however, entitled the mother, here petitioner, to all school related and educational Information directly from the school. In addition to her parenting time, she was entitled to bring the child to the school Wednesdays and Fridays and to bring her to school on Mondays. The Order also permitted both parents to attend back to school night but at different times.
3. Ma. M. missed her scheduled date for back-to-school night. After that, Ma. M. began on a course of what can mildly be considered abrasive conduct with school officials. For example, after missing back to school night she demanded another meeting “then screamed at the teacher when the meeting did not happen” (Certification of Principal Lauren Gonzale)¹
4. For the next several months and including the present day, Principal Gonzlez and staff were confronted by repeated attempts by Ma. M. to “expand her educational access that was not authorized by the FRO. For example, Ma. M. often would come to the school with her sister “and persisted in shouting down

¹ Unless noted otherwise all quoted factual allegations are from Principal Gonzalez’s certification

me and staff.” On another occasion, Ma. M.’s sister physically “grabbed the ID/lanyard from a staff member demanding to know who she was.”

5. Because J.L. had primary decision-making authority it was, by the school’s determination, to name emergency contact persons. He apparently did not want Ma. M. to know the confidential information containing his and his girlfriend’s address. However, Ma. M. “came to the school and attempted to rip off the emergency contact card and take it with her.” Despite being told by the school officials that it would be a breach of FERPA, she continues making demands that the school release emergency contact information.
6. On still another occasion, Ma. M. took a picture of a student/parent sign in sheet. It contained the confidential information of other students and parents. Despite being told taking such an unauthorized picture was a violation of FERPA, Ma. M. was “belligerent and refused to delete” the picture.
7. There was also an off-site field trip to an Imagine That Museum. to which Ma. M. and her sister showed up without first obtaining the form needed to be listed as a chaperone’s accompanying Me. M. Principal Gonzalez believed Ma. M.’s presence was motivated by her and her sister’s intention to confront J.L.’s girlfriend. After being loud and disruptive she was asked to leave but refused and police had to be called. Even though the police told Ma. M. not to reenter the premises, after the police left, Ma. M. tried to sneak into the museum’s back door.
8. Principal Gonzalez described other inappropriate behavior by Ma. M. at the school such as invading the personal space of staff and pointing fingers in their faces, falsely accusing a staff member of telling her daughter that she didn’t love her, and attempting to show photos of her husband J.L. allegedly at a liquor store while making disparaging remarks about him in front of other Kindergarten students.
9. Staff and principal Gonzalez have been forced to call the police at least another time and have had to threaten to do so on other occasions. As a result, Gonzalez says she and her staff do not “feel safe when she [Ma. M.] is present” and have required security with them when she is present.

10. Finally, a new FRO was filed March 9, 2026. [Exhibit D to Gonzalez's certification]. This Order states "All education decisions will remain" with the father "due to evidence presented pertaining to [Ma. M.] being banned from school and having issues with the Child's School." Principal Gonzalez noted that under this new FRO, pickups by Ma. M. are no longer at the school but are not at the local police station.

LEGAL DISCUSSION

N.J.A.C. 1:6A-12.1 provides that the affected parent(s), guardian, board or public agency may apply in writing for emergent relief. An emergency relief application is required to set forth the specific relief sought and the specific circumstances the applicant contends justify the relief sought. N.J.A.C. 6A:3-1.6(b) sets forth the standards governing motions for emergent relief:

A motion for stay or emergent relief shall be accompanied by a letter memorandum or brief which shall 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 the 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 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).

Beginning with the first requirement, it is well-settled that relief should not be granted except “when necessary to prevent irreparable harm.” Crowe, 90 N.J. at 132-33. In this regard, harm is generally considered irreparable if it cannot be adequately redressed by monetary damages. Id. at 132-33. 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).

The moving party bears the burden of proving irreparable harm. More than a risk of irreparable harm must be demonstrated. Continental Group v. Amoco Chemicals Corp., 614 F.2d 351, 359 (D.N.J. 1980). Ordinarily, the opportunity at issue here, namely the chance to walk in a high school graduation ceremony, is an event that, once missed, cannot be regained since it is a once in a lifetime event. See C.D. o/b/o S.C. v. Mainland Regional Bd. of Educ., EDS 08459-17, Decision on Emergent Relief, (June 16, 2017) <http://lawlibrary.rutgers.edu/oal/search.html> (“[T]he opportunity to participate in the graduation ceremony is an event that, once missed, cannot be regained since it is a once in a lifetime event”); K.H. o/b/o M.G. v. Kingsway Regional Bd. of Educ., EDS 6903-11, Decision on Emergent Relief, (June 17, 2011) <http://lawlibrary.rutgers.edu/oal/search.html>; R.C. o/b/o M.C. v. Pemberton Twp. Bd. of Educ., EDS 4212-02, Decision on Emergent Relief, (June 17, 2002) <http://lawlibrary.rutgers.edu/oal/search.html>. But see T.S. v. Jackson Township Board of Education, EDS 4113-07, Oral Decision on Emergent Relief, (May 25, 2007) <http://lawlibrary.rutgers.edu/oal/search.html> (concluding “prom and graduation, although important in one’s young life, will not result in irreparable harm if missed”). Under the circumstances, I **CONCLUDE** that the petitioner has not met the burden of establishing a clear showing of immediate irreparable injury unless the requested relief is granted. The only injury she described in argument on the motion (and nowhere supported by a brief, exhibits or certification), is that her child’s grades may suffer. However, other exhibits showed the child was averaging an 85 in all subjects and nothing under an 80 in any grade. From my review, the child’s school attendance has been excellent. In any event even if this five-year old’s grades were impacted, because of her mother’s

temporary limited access to the school, were impacted adversely, that is hardly irreparable harm.

Secondly, the petitioner must also demonstrate that the legal right underlying her claim is settled and petitioner must make a preliminary showing of a reasonable probability of success on the merits. Crowe, 90 N.J. at 133. The law on this point is, however, well-settled in favor of the respondent, who has broad discretion to take the actions needed to effectively operate its public schools and to protect the health, welfare, and safety of its students. C.D. o/b/o S.C., EDS 08459-17. Rules and regulations regarding school events and meetings such as graduation ceremonies are matters clearly within the purview of the respondent's discretion. J.M. o/b/o C.P. v. Hanover Park Regional Board of Education, EDS 5606-00, Final Decision, (June 23, 2000) <http://lawlibrary.rutgers.edu/oal/search.html> (matters concerning graduation are within the discretion of the district); J.Z. o/b/o C.Q. v. Bd. of Educ. of the Buena Regional School Dist., Atlantic County, EDS 0297-07, Final Decision, (July 23, 2007) <http://lawlibrary.rutgers.edu/oal/search.html>. See also Buonasorte v. Bd. of Educ. of Mainland Regional High School District, EDU 8012-09, Order on Application for Emergent Relief, (June 19, 2009), adopted, Comm'r (June 19, 2009) <http://njlaw.rutgers.edu/collections/oal/> ("The applicable case law establishes beyond question that participation in a graduation ceremony is a privilege and not a right"). Thus, school I board policies and actions such as setting up guidelines for field trips and other extracurricular activities, protecting privacy rights of students and other parents. limiting parents access to a school facility, are well within their authority and are entitled to a presumption of lawfulness and good faith, and where they are challenged, the challenger bears the burden of proving that the actions are unlawful, arbitrary, capricious, or unreasonable. Schuster v. Bd. of Educ. Montgomery Twp., 96 N.J.A.R. 2d (EDU) 670, 676 (citing Schnick v. Westwood Bd. of Educ., 60 N.J. Super. 448 (App.Div. 1960) and Quinlan v. Bd. of Educ. of North Bergen Twp., 73 N.J. Super. 40 (App.Div. 1962)). See also Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327, 332 (App.Div. 1965), aff'd, 46 N.J. 581 (1966); Kopera v. West Orange Bd. of Educ., 60 N.J. Super. 288, 294 (App. Div. 1960).

In other words, while the Board cannot be arbitrary and capricious in its actions, it does have the authority to establish and enforce rules with regard to attendance and participation at school-sponsored events, even key events in a student's life such as graduation ceremonies. The same applies to meetings with teachers and other school staff. The arbitrary, capricious and unreasonable standard of review imposes a heavy burden on challengers of board actions. This standard has been defined by New Jersey courts as follows:

In the law, "arbitrary" and "capricious" means having no rational basis. Arbitrary and capricious action of administrative bodies means willful and unreasoning action, without consideration and in disregard of circumstances. Where there is no room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration, even though it may be believed that an erroneous conclusion has been reached . . . Moreover, the court should not substitute its judgment for that of an administrative or legislative body if there is substantial evidence to support the ruling.

[Piccoli v. Ed. of Educ. of Ramapo Indian Hills Regional School District, EDU 1839-98, Initial Decision, (January 22, 1999) <http://lawlibrary.rutgers.edu/oal/search.html> (citing Bayshore Sewage Co. v. Dent. of Envir. Protection, 122 N.J. Super. 184, 199-200 (Ch. Div. 1973), aff'd 131 N.J. Super. 37 (App. Div. 1974)).]

While restrictions on some parents as getting preapproval and respecting procedures such as sign-in sheets may be galling to some parents, they don't approach violating their rights, nor does that complaint rest on any well settled principle or right clearly established in that law. It is well known that our Family courts are the primary vehicle in which parental rights, between parents are settled. Even if there was a logical connection between the two present legal controversies, it would seem the child's father J.L. is an indispensable party to this action. In any event, under the second and third prongs of the Crowe test, the applicable "arbitrary and capricious" legal standard makes the probability of success on the merits dubious. Further it seems at this stage that Ma. M. is largely to blame for backing the school into a corner by trying to unfairly implicate them in her ongoing matrimonial challenge. And while I make no decision on a point raised by the District that the matter being brought here is an issue of res judicata

because the family court has already ruled on it, or an issue of collateral estoppel, it would appear to be in the interest of both sides that petitioner focus on the matrimonial case most preferably with attorney guidance.

I **CONCLUDE**, therefore, that the petitioner has not shown a likelihood of prevailing on the merits of the underlying claim given the applicable “arbitrary and capricious” standard which applies. Although petitioner challenges the accuracy of allegations as set forth in the District’s Certifications and Exhibits, the only real dispute with the allegations as articulated in the proceeding is that no harm has yet occurred to anyone as a result of this latest episode. That is clearly not enough to satisfy this third standard as provided for in Crowe.

Although none of the other three Crowe standards have been met, and all of them must be met to grant emergent relief, in order to give a full review of the petition, I will also discuss the equities. Based on Ma. M.’s conduct, the equities could hardly be more weighed in favor of the Board’s than as they are here. Moreover, as noted by petitioner herself, the child will only be attending the school another two and one half months, and then moves on to another school. The school appears to have had to spend more than enough of its time and efforts on dealing with a very upset mother, but her primary upset comes I believe from her unsatisfactory (to her) results in Family court so far. That is hardly a reason to put the school as this emergent application does. I therefore conclude the balance of equities rests with the School District.

All four of the Crowe v. De Gioia standards as codified in N.J.A.C. 6A:3-1.6 must be met in order for emergent relief to be granted. Here, I **CONCLUDE** that the petitioner has not met any of the four standards, and the petition for emergent relief therefore must be **DENIED**.

ORDER DENYING EMERGENT RELIEF

The petitioner's request that emergent relief to Order the District to permit more access to the school by petitioner to compel the Superintendent to meet with her, and any other requested relief 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.

March 23, 2026

DATE



ERNEST M. BONGIOVANNI, ALJ

Date Received at Agency

3/24/26

Date Mailed to Parties:

3/24/26

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