

140-26E
OAL Dkt. No. EDU 05038-26
Agency Dkt. No. 103-03-26

New Jersey Commissioner of Education
Order on Emergent Relief

T.B., on behalf of minor child, T.B.,

Petitioner,

v.

Board of Trustees of the Village Charter School, Inc.,
Mercer 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

EMERGENCY RELIEF

OAL DKT. NO. EDU 05038-26

AGENCY DKT. NO. 103-03-26

T.B. ON BEHALF OF MINOR CHILD, T.B.,

Petitioner,

v.

**BOARD OF TRUSTEES OF THE
VILLAGE CHARTER SCHOOL, INC.**

MERCER COUNTY,

Respondent.

T.B., appearing pro se

Jaryda A. Gonzalez, Esq., appearing for respondent (Johnston Law Firm LLC,
attorneys)

BEFORE **KIM C. BELIN**, ALJ:

STATEMENT OF THE CASE

By request for emergent relief, petitioner T.B. (petitioner or T.B.) challenges the decision of the respondent, Board of Trustees of the Village Charter School, Inc. (VCS or respondent), to impose discipline upon her minor child, T.B., for violating the student code of conduct. The query is whether petitioner is entitled to emergent relief and to therefore

have the discipline removed from T.B.'s pupil records. No, N.J.A.C. 6A:3-1.6(b) requires proof of irreparable harm, which is not present in this case.

PROCEDURAL HISTORY

On February 27, 2026, the petitioner received notice that her daughter, T.B., was suspended from school for a total of three days. On March 20, 2026, petitioner filed a petition of appeal seeking emergent relief from respondent's decision to impose this discipline upon her daughter, T.B. The director of the Office of Controversies and Disputes within the Department of Education transmitted the petition and motion for emergent relief to the Office of Administrative Law (OAL), where it was filed on March 30, 2026. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23; N.J.A.C. 1:1-8.2. Oral argument was held on April 1, 2026, and the record on the motion for emergent relief closed on that date.

FINDINGS OF FACT

The following **FACTS** are undisputed, and I therefore **FIND**:

T.B. is an eighth-grade student at Village Charter School. On February 26, 2026, school staff were alerted at the end of the school day that the vape sensors were activated in the eighth-grade girls' bathroom during the last instructional period. (¶ 2, Dr. Bedden's Certification.) On February 27, 2026, staff viewed the video footage and identified T.B. as one of the students in the bathroom at the time of the alert. (Id. at ¶ 4.)

On February 27, 2026, all the students identified in the video were interviewed by staff. (Ibid.) T.B. was evaluated by the school nurse, who found no indication of intoxication. T.B. was not taken to a hospital or medical doctor for evaluation.

On February 27, 2026, petitioner was notified that T.B. was suspended from school for three school days, consisting of a one-day in-school suspension and a two-day out-of-school suspension. (Id. at Exh. D.) In addition, T.B. was prohibited from participating

in any school activities, such as cheerleading practice. On March 20, 2026, petitioner filed for emergent relief.

Respondent's Vaping FAQ states that if a student is caught vaping and/or is believed to be under the influence:

- The student is immediately taken to the **School Nurse** for a preliminary screening.
- The parent/guardian is notified to pick up the student.
- The student **must** be taken for an immediate **medical examination and chemical/drug screening** by a physician or at a designated facility.
- The student Code of Conduct is implemented.

[Exh. C, Dr. Bedden's Certification.]

The FAQ also provides:

If a student is found with a vape device but does *not* appear to be "under the influence" (no impaired health, mental confusion, or physical signs), the policy for Possession of Paraphernalia applies:

- The student is immediately taken to the School Nurse for a preliminary screening.
- The parent/guardian is notified to pick up the student.
- The student Code of Conduct is implemented.

[Ibid.]

DISCUSSION AND CONCLUSIONS OF LAW

Emergent Relief

The regulations governing controversies and disputes before the Commissioner of Education provide that "[w]here the subject matter of the controversy is a particular course of action by a district board of education . . . , 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.A.C. 6A:3-1.6(a). The

regulations further provide that the Commissioner may “[t]ransmit the motion to the OAL for immediate hearing on the motion.” N.J.A.C. 6A:3-1.6(c)(3).

At such a hearing, a petitioner must show that the following four standards are met:

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) (citing Crowe v. De Gioia, 90 N.J. 126 (1982)).]

Thus, 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.’” Crowe, 90 N.J. at 132 (quoting Thompson ex rel. Bd. of Chosen Freeholders v. Paterson, 9 N.J. Eq. 624, 625 (E. & A. 1854)). The petitioner has the burden of establishing all the above requirements in order to warrant relief in their favor and must prove each of these Crowe elements “clearly and convincingly.” Waste Mgmt. of N.J. v. Union Cnty. Utils. Auth., 399 N.J. Super. 508, 520 (App. Div. 2008); D.I. & S.I. ex rel. T.I. v. Monroe Twp. Bd. of Educ., 2017 N.J. AGEN LEXIS 814 at *7 (Oct. 25, 2017).

It is well settled that injunctive relief should not be granted except “when necessary to prevent irreparable harm.” Crowe, 90 N.J. at 132. In this regard, harm is generally considered irreparable if it cannot be adequately redressed by monetary damages. Id. at 132–33. Moreover, the harm must be substantial and immediate. Judice’s Sunshine Pontiac, Inc. v. Gen. Motors Corp., 418 F. Supp. 1212, 1218 (D.N.J. 1976). More than a risk of irreparable harm must be demonstrated. Cont’l Grp., Inc. v. Amoco Chems. Corp., 614 F.2d 351, 359 (3d Cir. 1980). “In certain circumstances, severe personal

inconvenience can constitute irreparable injury justifying issuance of injunctive relief. Hodge v. Giese, 43 N.J. Eq. 342, 350 (Ch. 1887) (one tenant temporarily granted right to enter other tenant's premises to service heater)." Crowe, 90 N.J. at 133.

Here, petitioner T.B. asserts that her daughter, T.B., will suffer irreparable harm if her records are not expunged of these suspensions because these suspensions will prejudice her future educational opportunities. Daughter T.B. is actively applying to high schools and petitioner does not want these infractions to impair T.B.'s opportunities to be accepted into any high school to which she applies.

However, respondent's counsel shared during oral argument that T.B. had been accepted to the high school of her choice yesterday. Petitioner affirmed this congratulatory information. In addition, respondent's counsel stated that the desired high school did not request any disciplinary records and Dr. Beddens offered his support if the high school questioned T.B.'s disciplinary record as T.B. was a good student overall. Moreover, the suspensions have been served, and there are no other restrictions placed on T.B. for the remainder of the current school year. Thus, T.B. may continue to participate in all school activities, provided there are no other infractions.

While this tribunal recognizes petitioner's concern and urgency for her daughter to have every educational opportunity possible, there is insufficient evidence that there is "threatening, irreparable mischief" afoot or substantial or immediate harm. To the contrary, T.B. has been accepted into the high school of her choice. Accordingly, I **CONCLUDE** that petitioner has not satisfied the first prong of the Crowe test.

Because petitioner has not satisfied the first prong, discussion of the other prongs is unwarranted.

Conclusion

To justify the granting of emergent relief, all four of the Crowe standards as codified in N.J.A.C. 6A:3-1.6 must be met and, for the reasons detailed above, the first prong has not been met in this matter. I **CONCLUDE**, therefore, that petitioner has not met these

required standards, and the petition for emergent relief therefore must be denied. This Order, however, takes no position on the ultimate resolution of the factual dispute, which must await a plenary hearing. Crowe, 90 N.J. at 135.


ORDER

I **ORDER** that the petitioner's motion for emergent relief is **DENIED**, and the case will proceed with the underlying due process petition.

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.

April 2, 2026

DATE



KIM C. BELIN, ALJ

Date Received at Agency: April 2, 2026

Date Mailed to Parties: April 2, 2026

KCB/gd

cc: OAL clerk

APPENDIX

Exhibits

For petitioner:

Petition of appeal dated March 20, 2026, with certification.

For respondent:

Letter Brief dated March 31, 2026, with exhibits and Certification of Dr. Dana Bedden in opposition to petitioner's application for emergent relief