

208-26E
OAL Dkt. No. EDU 09872-26
Agency Dkt. No. 252-06-26

New Jersey Commissioner of Education
Final Decision

A.O., on behalf of minor child, K.R.,

Petitioner,

v.

Jersey City Board of Education, Hudson County,

Respondent.

The record of this emergent matter and the recommended decision 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 decision 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: June 18, 2026
Date of Mailing: June 18, 2026



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER

EMERGENT RELIEF

OAL DKT. NO. EDU 09872-26
AGENCY DKT. NO. 252-06-26

A.O. ON BEHALF OF K.R.,

Petitioner,

v.

JERSEY CITY BOARD OF EDUCATION,

Respondent.

A.O. petitioner appearing pro se

Cherie L. Adams, Esq., for respondent Jersey City Board of Education (Adams, Lattiboudere, Croot & Herman, LLC)

BEFORE **MARIANNE B. ORTEGA**, ALJ:

Petitioner, A.O. challenges the Jersey City Board of Education's (Board or respondent) decision to exclude her child K.R. from her 8th grade graduation ceremony. On June 17, 2026, petitioner filed a Motion for Emergent Relief to compel respondent to allow K.R. to walk in the graduation ceremony on June 18, 2026. The Board prohibited K.R. from participation in the ceremony due to a vaping incident during an overnight trip. The matter was filed with the Office of Administrative Law (OAL) as a contested matter June 17, 2026. On June 17, 2026, I conducted the hearing and closed the record.

FACTUAL DISCUSSION

Based on the reports presented at the hearing as well as on the opportunity to observe the witnesses and assess their credibility, I **FIND** the following:

K.R. is an eight-grade student who has met the requirement to be promoted to the ninth grade.

On June 3, 2026, K.R. was on an overnight school trip to Philadelphia, Pennsylvania. On June 10, 2026, the school district became aware of a smoking violation that occurred during that school trip. The school district received a notice from the tour company indicating that the hotel's smoke detection system detected smoke in a student's room at approximately 10:17 p.m. on June 3, 2026. The room was assigned to four students, including K.R. The school district conducted an investigation and interviewed K.R. and the other three occupants of the room individually. One of the students stated that K.R. was vaping in the bathroom and there was a strong odor which the student believed to be marijuana. Another student stated that she also witnessed K.R. vaping at the Dave & Busters and at the hotel room in the evening of June 3, 2026 and the morning of June 4, 2026. During her interview, K.R. denied vaping and stated that she neither smelled nor observed any vaping in the room. K.R. had alleged that another roommate had a blue vape in her bag, however she stated she never observed the student using it. During the interview process at least two students stated that there was smoke in the room that smelled like marijuana and directly observed K.R. vaping.

The parents of all the students that were assigned to the room were called. The parents of the other students agreed to take their children for drug testing. A.O. did not comply with the drug testing as required by the district boards policy. K.R. was given a three-day suspension and was also excluded from the 8th grade luncheon.

On June 15, 2026, the principal advised A.O., via email, that due to the incident during the overnight trip, and the failure to comply with the required drug testing, K.R. would not be able to walk at the graduation ceremony on June 18, 2026. Principal Rivero testified that due to the incident during the Philadelphia overnight trip and the failure to

comply with the required testing and interventions and participation and completion of the C-Line Program, a drug intervention program, that K.R. would not be able to walk.

LEGAL DISCUSSION AND CONCLUSIONS

N.J.A.C. 6A:3-1.6(b) sets forth the standards governing motions for emergent relief. The regulation instructs in salient part:

A motion for a stay or emergent relief shall be accompanied by a letter memorandum or brief which shall address the following standards be met for granting such relief pursuant to Crowe v. DeGioia, 90 N.J. 126 (1982):

1. The respondent will suffer irreparable harm if the requested relief is not granted;
2. The legal right underlying respondent's claim is settled;
3. The respondent 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 respondent will suffer greater harm than the respondent will suffer if the requested relief is not granted.

Respondent has the burden of establishing each of the above requirements in order to warrant relief in his favor.

It is well settled that relief should not be granted except "when necessary to prevent irreparable harm." Crowe, supra 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. 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, Inc. v. General Motors Corp., 418 F. Supp. 1212, 1218 (D.N.J. 1976) (citation omitted). See New Jersey Dep't of Environmental Protection v. Circle Carting, Inc., 2004 N.J. AGEN LEXIS 968 (April 2, 2004) (finding no irreparable harm in connection with the revocation of respondent's solid waste license in that financial loss is generally insufficient to demonstrate this requirement). The moving party bears the burden of proving irreparable

harm. More than a risk of irreparable harm must be demonstrated. Continental Group, Inc. v. Amoco Chemicals Corp., 614 F. 2d 351, 359 (D.N.J. 1980). The requisite for injunctive relief requires a “clear showing of immediate irreparable injury,” or a “presently existing actual threat; (an injunction) may not be used simply to eliminate a possibility of a remote future injury, or a future invasion of rights, be those rights protected by statute or by common law.” Ibid. (citation omitted.)

In this matter, the petitioner will not suffer irreparable harm by not being able to walk in her 8th grade graduation ceremony. K.R. failed to comply with previously required intervention. The Board reserves the right to take away privileges and other disciplinary consequences when students engage in prohibited conduct. Since K.R. will advance to the 9th grade and receive her diploma, I **CONCLUDE** that respondent will not suffer irreparable harm.

Local boards of education are responsible for protecting the health, safety and welfare of their students and ensuring the orderly conduct of the academic process. Goss v. Lopez, 419 U.S. 565, 95 S. Ct. 729, 42 L. Ed. 2d 725 (1975). To accomplish this, such boards are empowered to establish rules of conduct and impose discipline to enforce such rules. It is established law that the actions of a board of education which lie within the area of discretionary powers, especially as it relates to matters of student discipline, cannot be upset unless there is a showing that the discipline imposed was arbitrary, capricious, without a rational basis, or induced by improper motives. J.M. vs. Hunterdon Cent. Reg'l High Sch. Dist., 96 N.J.A.R.2d (EDU) 415, 419 (citing Kopera v. W. Orange Bd. of Educ., 60 N.J. Super. 288 (App. Div. 1960)).

Based on the evidence submitted, I cannot conclude that the actions of the school district in imposing discipline upon K.R. were arbitrary, without a rational basis, or induced by improper motives. All that is contained in the record before me in support of K.R. is the argument that respondents' actions are retaliatory due to her prior infractions. There is not enough objective evidence in the record before me upon which I can base a conclusion that petitioner would be successful in prevailing on the merits of the underlying claim that K.R. is not guilty of the disciplinary infractions in question.

There is no question that graduation is a privilege, and that under the clearly enunciated policies of the school district, failure to comply with the disciplinary requirements of the school district will result in a student's exclusion from the graduation ceremony.

All the criteria of N.J.A.C. 6A:3-1.6(b) must be met in order for petitioner to prevail on a motion for emergent relief. I **CONCLUDE** petitioner did not meet all of the criteria of N.J.A.C. 6A:3-1.6(b) because they have not shown a likelihood of prevailing on the merits.

Accordingly, it is **ORDERED** that petitioner's application for such relief be and hereby is **DENIED**.

This order on application for emergency relief may be adopted, modified or rejected by the **COMMISSIONER 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 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 17, 2026



DATE
ljb

MARIANNE B. ORTEGA, ALJ