

218-26E
OAL Dkt. No. EDU 09967-26
Agency Dkt. No. 257-06-26

New Jersey Commissioner of Education

Final Decision

A.S.,

Petitioner,

v.

Wayne Township Board of Education, Passaic
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. Because petitioner advised the ALJ during oral argument that she does not wish to pursue any underlying issues now that the question of graduation has been resolved, no further proceedings are necessary.

IT IS SO ORDERED.¹



COMMISSIONER OF EDUCATION

Date of Decision: June 24, 2026
Date of Mailing: June 24, 2026

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A.* 18A:6-9.1. Under *N.J.Ct.R.* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING

EMERGENT RELIEF

OAL DKT. NO. EDU 09967-26
AGENCY DKT. NO. 257-06-26

A.S.,

Petitioner,

v.

WAYNE TOWNSHIP BOARD OF EDUCATION,

Respondent.

A.S., petitioner, pro se

John Comegno, Esq., for respondent Wayne Township Board of Education
(Comegno Law Group, attorneys)

BEFORE **MINDY GENSLER**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On June 20, 2026, petitioner, A.S. filed an emergent application challenging the Wayne Township Board of Education's (Board or respondent) decision denying her credit for English, not allowing her to graduate, and excluding her from her school's twelfth-grade graduation ceremony on June 24, 2026.

On May 28, 2026, the Attendance Review Committee (ARC) determined that A.S. would not receive credit for English, among other classes, and advised her that she would be unable to graduate and walk at graduation.

On June 22, 2026, the Department of Education (DOE) transmitted this case to the Office of Administrative Law for resolution of the emergent application and to file the contested case 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 -13, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On June 23, 2026, I conducted the hearing and I closed the record. At the hearing, A.S. confirmed that this decision is fully dispositive of the issues A.S. raised in her petition and the Board agreed that the matter can be dismissed following this determination.

FACTUAL DISCUSSION

For purposes of this application for emergent relief, the following facts are undisputed and I **FIND** them as facts:

A.S. is an eighteen-year-old senior at Wayne Hills High School. In 2020, A.S. and her family immigrated from Egypt with her family. In 2024, A.S.'s father left the country leaving them with no identification or transportation. A.S. had to work almost full time to support her family. In 2026, A.S.'s home was the subject of foreclosure proceedings. A.S. suffers from depression and post-traumatic stress disorder as a result of the challenges she has faced over the past two years. A.S. asserts that these circumstances justify her absences and entitle her to graduate.

During the 2025 to 2026 school year, A.S. missed English a total of fifty-nine (59) times through June 23, 2026, and missed other classes as well. Throughout the school year, the respondent notified A.S. in person and by letter that her excessive absences could put her in jeopardy of not graduating. Specifically, on November 10, 2025, the Assistant Principal (AP) sent a letter to A.S. regarding her multiple absences, notifying her that she may not graduate. On February 4, 2026, the Assistant Principal sent another

letter to A.S. indicating that she would not receive credit for Health due to her excessive absences. That same month, respondent spoke to A.S. and advised her to attend her classes, that she may be denied credit for classes, and may not graduate if she continues to be absent. On April 17, 2026, the AP again sent A.S. a letter regarding excessive absences and that her absences could result in A.S. not graduating.

Board policy 5200 provides that a high school student may be “denied course credit when the student has been absent from school more than 13 days, in a full year course.” This policy also explains that a student who has repeated absences from class may result in the loss of credit of a class. The Board established the ARC to review students’ attendance records and to consider any evidence of extenuating circumstances to determine whether a student will receive credit for the classes that were missed more than permitted. On May 27, 2026, the ARC met to consider A.S.’s absences and review whether extenuating circumstances existed to determine whether she should receive credit for classes where she had multiple absences. The ARC determined that A.S.’s extenuating circumstances did not excuse her 59 absences in English Twelve and found that A.S. would not receive credit for English Twelve, a course that is a graduation requirement and one necessary to receive a high school diploma. The ARC also denied A.S. credit for College Algebra and Discrete Math and Forensic Science S1 and S2 for excessive absenteeism. On May 28, 2026, the AP informed A.S. that she will be unable to participate in the graduation ceremony and must attend summer school to complete English Twelve to obtain a diploma. A.S. met with her guidance counselor in June, who reiterated this decision.

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 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.

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). Harm is irreparable when there can be no adequate after the fact remedy in law or in equity; or where monetary damages cannot adequately restore a lost experience. C.D. v. Mainland Regional Bd. of Educ. 2017 N.J. AGEN LEXIS 389 (June 16, 2017). The opportunity to participate in the graduation ceremony 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).

A.S. claims that her inability to walk at graduation indeed would cause irreparable harm, since monetary damages cannot adequately redress the inability to walk at graduation with her peers. As such, I **CONCLUDE** that A.S. has satisfied the burden as to irreparable harm.

Although A.S. demonstrates that she will suffer irreparable harm, A.S. has failed to demonstrate that law is well-settled in her favor, that she has a likelihood of success on the merits, or that A.S. will suffer greater harm than the Board will suffer if the Board's

decision is reversed. To the contrary, the law is well settled in favor of the Board on this issue, which has broad discretion to take actions needed to effectively operate its schools and establish policies to govern attendance.

The DOE has adopted regulations requiring boards of education to develop, adopt, and implement requirements for a State endorsed diploma. N.J.A.C. 6A:8-5.1 and -8-52. Local graduation requirements must include at least twenty credits in English and local attendance requirements. N.J.A.C. 6A:8-5.1(a)(1)(i) and – (a)(3). Local boards of education are also 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). Toward this end, local boards are charged with establishing policies for student attendance, which include consequences for a student's failure to comply with that policy. N.J.A.C. 6A:16-7.6. It has been consistently held that participation in graduation is a privilege and not a right. C.D. o/b/o S.C. v Mainland, 2017 N.J. AGEN LEXIS 389 (June 16, 2017). It is equally settled that actions within a school board's authority, including establishing policies for student attendance, are entitled to a presumption of validity and will not be overturned, absent a showing that the decision was arbitrary, without rational basis or induced by improper motives. Kopera v. West Orange Bd. of Education, 60 N.J. Super. 288, 294 (App. Div 1960).

Based on the documents submitted by the parties and having considered the arguments made, A.S. has failed to demonstrate that she has a right to attend graduation and that the decision to disallow her credit for her English class and graduate with her class is arbitrary, capricious or unreasonable. A.S. has not shown that the decision is without a rational basis or induced by improper motives. Quite the opposite, A.S. concedes that she has a history of absenteeism. While this Court recognizes that A.S. has faced significant challenges, including having to work while in school to financially support her family, respondent advised A.S. in November and several times thereafter that she had excessive absences that placed her in danger of not graduating for missing English and other classes multiple times. Despite this notice, A.S. missed fifty-nine days of her English class, violating the Board's policy of no more than thirteen absences. The record is devoid of any evidence establishing that A.S. would be successful in prevailing

on the merits of the underlying claim – that she should be granted credit for her English class, obtain her diploma, and graduate with her class.

Finally, in balancing the equities and interests of the parties, the Board's absenteeism policy should be enforced over allowing A.S. to graduate when she failed to attend class on multiple occasions. A.S.'s inability to participate in graduation does not rise to the severity of harm to warrant overruling the clearly enunciated policies of the school district that failure to comply with the attendance requirements of the school district will result in a student's exclusion from the graduation ceremony. The Board has a substantial interest in making sure children attend school and allowing A.S. to graduate when she clearly did not attend school for a significant part of the year would "undermine the Board's authority that would have a far-reaching effect on the school district in its dealing with students." C.D. o/b/o S.C. v. Mainland Regional Bd. of Educ., at *15. On balance, this interest significantly outweighs the harm A.S. will suffer from not being granted credit for her English class and not participating in graduation.


Based on the foregoing, A.S. has failed to satisfy three of the four prongs required to be entitled to the emergent relief sought. Therefore, I **CONCLUDE** petitioner is not entitled to the emergency relief and the request for emergent relief is denied.

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 24, 2026

DATE



MINDY GENSLER, ALJ

Date Received at Agency: June 24, 2026

Date Mailed to Parties: June 24, 2026

cc