

219-26E  
OAL Dkt. No. EDU 10015-26  
Agency Dkt. No. 263-06-26

**New Jersey Commissioner of Education**  
**Final Decision**

K.R., on behalf of minor child, I.R.,

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.<sup>1</sup>



COMMISSIONER OF EDUCATION

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

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<sup>1</sup> 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**

**EMERGENT RELIEF**

OAL DKT. NO. EDU 10015-2026  
AGENCY DKT. NO. 263-06-26

**K.R. O/B/O MINOR CHILD I.R.,**

Petitioner,

v.

**WAYNE TOWNSHIP BOARD OF EDUCATION,**

Respondent.

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**K.R.**, petitioner, pro se

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

Record Closed: June 24, 2026

Decided: June 24, 2026

BEFORE **BINDI MERCHANT**, ALJ:

**STATEMENT OF THE CASE**

Petitioner K.R. seeks emergent relief after I.R. was barred from participating in graduation by respondent, Wayne Township Board of Education's (Board) for failing to meet attendance and credit requirements. Should I.R. be permitted to attend and participate in the twelfth-grade graduation ceremony scheduled for June 24, 2026? No, participation in graduation is a privilege, not a right. The Board's action to deny I.R. was not arbitrary, capricious, or unreasonable

## **PROCEDURAL HISTORY**

On May 28, 2026, the Attendance Review Committee (ARC) determined that I.R. 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 transferred 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 24, 2026, I conducted the hearing and I closed the record. At the hearing, K.R. confirmed that this decision is fully dispositive of the issues K.R. raised in her petition and that the matter can be dismissed following this determination.

## **FINDINGS OF FACT**

Based on the oral arguments and documents presented by the parties, I **FIND** the following as **FACT** for purposes of this application only:

1. I.R. is a twelfth-grade student attending Wayne Hills High School.
2. I.R. has not met the attendance and credit requirements to receive a New Jersey sponsored high school diploma from respondent.
3. Board Policy 5200 provides that “[p]rolonged or repeated absences, *excused or unexcused*, from school or from class, deprive students of the educational and classroom experiences deemed essential to learning and may result in retention at grade level or *loss of credit or removal from a course that would count toward the high school diploma in accordance with policies of this Board.*”
4. Board Regulation 5200 sets the absence threshold: “[a] high school student may be dropped from a course or denied course credit when the student has been absent from school more than 13 days, in a full year course, more

than 9 days in Physical Education, more than 6 days in a half-year course, or more than 3 days in a quarter year course (whatever the reason for the absence, except that absences for the observation of a NJDOE approved religious holiday, "Take Our Children to Work Day," college visits, attendance to a civic event, or absences caused by a student's suspension will not count toward the total.

5. Board Policy 5410 provides that "[s]chool attendance shall be a factor in the determination of a pupil's promotion or retention. Only extenuating circumstances should permit the promotion of a pupil who has been in attendance fewer than ...one hundred sixty days during the school year for grades nine through twelve.
6. Board Policy 5600, bestows the Board with the authority to "deny participation in extra-curricular activities, school functions, sports, graduation exercises, or other privileges as disciplinary sanctions when designed to maintain the order and integrity of the school environment, in accordance with N.J.A.C. 6A:16-7.1(d)."
7. I.R. accumulated 71 absences in English; 79 absences in Foundations of Graphic Design; 56 absences in Into to Visual Arts; 39 absences in Work-Based Learning; and 18 absences in Physical Education.
8. In February 2026, respondent met with K.R. to inform him that I.R. had accumulated 35 absences.
9. On March 9, 2026, respondent emailed K.R. an update on I.R.'s attendance to express concern that from their prior meeting in February, I.R. had now a total of 49 absences and that was significantly impacting her ability to earn credit for English. Respondent offered support and requested additional doctor notices or documentation, if any.
10. Respondent established an Attendance Review Committee (Committee), made up of nurses, teachers, school counselors, CST members, and administrators, to review any students' attendance throughout the district, at which time parents and students submit any evidence of extenuating circumstances, in order to make determinations with relation to credit recovery of credit lost.

11. On May 27, 2026, the Committee met to consider I.R.'s absences and review whether extenuating circumstances existed to determine whether she should receive credit for classes where she had multiple absences.
12. Notes from I.R.'s therapeutic chiropractor were provided, but they did not have any dates or a diagnosis/treatment plan. The Committee found that the number of absences far outweighed the noted provided by the chiropractor.
13. On May 28, 2026, respondent informed petitioners that waived the Committee waived the attendance requirements for Work-Based Learning and PE, however, it did not waive the attendance requirements for English, Foundations of Graphic Design, and Introduction to Visual Arts.
14. I.R. was given the opportunity to restore the credit lost by attending and successfully completing, with a passing grade, and approved SummerSchool class for the class in which the credit was denied.
15. Petitioners were also advised that I.R. would not be able to participate in graduation ceremony and must attend summer school to obtain a diploma.
16. On June 3, 2026, upon review of petitioner's request for reconsideration, respondent advised that due to the high number of accumulated absences, I.R. could not participate in graduation ceremony.
17. On June 23, 2026, in response to petitioner's request for clarification of the attendance policy, respondent advised that I.R. failed both English and Art due to absences, that she accumulated over 50 absences in both English and Art, and the limit is 13.
18. Respondent advised that all doctor's notes were taken into careful consideration by the Committee, but the Committee could not justify the number of absences or the 109 times I.R. was late to school.

## **CONCLUSIONS OF LAW**

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.

Petitioners have the burden of establishing each of the above requirement warrant relief in her favor.

It is well settled that 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. 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)

Numerous cases hold that participation in a graduation ceremony and other school activities is a privilege and not a right. See A.D. v. Town of West New York Bd. of Educ., Hudson County, 2016 N.J. AGEN LEXIS 522 (OAL Docket No. EDU 09030-16); see also D.S. o/b/o D.C. v. Board of Educ. of Parsippany Troy Hills, OAL Docket No. EDU-90055-06, 96 N.J.A.R. 2d (EDU) 697 (June 14, 1996). Of course, “there is no adequate after-the-fact remedy that can adequately redress the intangibles of a lost experience after the event is over.” A.D., 2016 N.J. AGEN LEXIS, \*4.

Here, K.R. claims that I.R.’s 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 K.R. has satisfied the burden as to irreparable harm.

Although K.R. demonstrates that I.R. will suffer irreparable harm, K.R. has failed to demonstrate that law is well-settled in her favor, that she has a likelihood of success on the merits, or that I.R. 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 New Jersey Department of Education 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 last 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, K.R. has failed to demonstrate that I.R. 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. K.R. has not shown that the decision is without a rational basis or induced by improper motives.

Quite the opposite, there is a long-standing history of absenteeism in this case. While this Court recognizes that I.R. has faced significant challenges, including having to deal with the loss of her older sister and bullying, respondent advised petitioners several times that I.R. had excessive absences that placed her in danger of not graduating for missing English and other classes multiple times. Despite this notice, I.R. 71 days of her English class, and similar absences in other classes, violating the respondent's policy of no more than thirteen absences. The record is devoid of any evidence establishing that petitioner 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 respondent's absenteeism policy should be enforced over allowing I.R. to graduate when she failed to attend class on multiple occasions. I.R.'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 respondent has a substantial interest in making sure children attend school and allowing I.R. to graduate when she clearly did not attend school for a significant part of the year would "undermine the respondent'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. Respondent argues that they apply their policy equally to every student enrolled in their District.

To their knowledge, at least for the past 10 years, Wayne Hills High School no student has been provided accommodations during the days leading up to the graduation ceremony in order to recover credit lost from excessive absences.

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, petitioner 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. I additionally **CONCLUDE** that there are no further issues to be resolved as the request for emergent relief pertained only to I.R.'s participation in the graduation ceremony.

**ORDER**

Given my Findings of Fact and Conclusions of Law, I **ORDER** that petitioner's request for emergency relief is **DENIED**, and that this case is **DISMISSED**.

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

June 24, 2026

DATE



BINDI MERCHANT, ALJ

Date Emailed to Agency:

June 24, 2026

Date Emailed to Parties:

June 24, 2026

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**APPENDIX**

**EXHIBITS**

**For Petitioner**

Petition and Motion for Emergent Relief dated June 22, 2026, with exhibits  
Reply dated June 24, 2026, to Respondent's Opposition with exhibits

**For Respondent**

Opposition dated June 24, 2026, to petitioner's application with exhibits.