

220-26E
OAL Dkt. No. EDU 09965-26
Agency Dkt. No. 256-06-26

New Jersey Commissioner of Education
Final Decision

N.E., on behalf of minor child, L.E.-K.,

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



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER

EMERGENT RELIEF

OAL DKT. NO. EDU 09965-26

AGENCY REF. NO.: 256-06-26

N.E. ON BEHALF OF L.E.- K.,

Petitioner,

v.

**WAYNE TOWNSHIP BOARD OF EDUCATION,
PASSAIC COUNTY,**

Respondent.

N.E., petitioner, pro se

John Comegno, Esq., for respondent (Comegno Law Group P.C., attorneys)

BEFORE **WILLIAM J. COURTNEY**, ALJ:

STATEMENT OF THE CASE

Petitioner (N.E.) seeks emergent relief requesting this tribunal enter an order permitting her daughter (L.E.-K) to participate in the Wayne Hills High School ("WHHS") graduation ceremony for the class of 2026 and to complete on-line coursework by 6/28/26. Respondent Wayne Township Board of Education ("Board") maintains that L.E.-K. has not met the Board's credit and attendance requirements and is therefore not able to receive a high school diploma at the time of the scheduled graduation ceremony on

6/24/26. They also maintain that the online English course L.E.-K. needs to complete in order to meet her credit requirements does not begin until 6/29/26.

PROCEDURAL HISTORY

On 5/27/26 the Board notified petitioner that due to her excessive absences the attendance review committee determined that L.E.-K. could not receive course credit for English 2 and thus did not meet graduation requirements. Petitioner filed a timely appeal of the Board's decision, and the matter was transmitted to the Office of Administrative Law (OAL") on 6/22/26 for an emergent hearing which was held on 6/22/26. The record was closed on 6/23/26 after receipt of a Certification and letter brief by respondent and opposition thereto from petitioner.

FACTUAL FINDINGS

After full review of the testimonial and documentary evidence, I **FIND** the following facts:

1. Michael Rewick is the Principal of Wayne Hills High School, and has been the Principal of Wayne Hills High School for the last ten (10) years. See Certification of Michael Rewick ("Rewick Cert."), attached hereto as Exhibit 1, at ¶¶ 1-2.
2. L.E.-K. is a twelve-grade student attending Wayne Hills High School. See Rewick Cert. at ¶ 3.
3. At each graduation ceremony, Principal Rewick is tasked with certifying that all students have met the State and District requirements for a New Jersey high school diploma. Rewick Cert. at ¶ 4.
4. L.E.-K. has not met the attendance and grade requirements in order to receive a New Jersey sponsored High School diploma from the Board. Rewick Cert. at ¶ 5.
5. Each year, certain students do not graduate due to failure to meet the credit and/or attendance requirements. Rewick Cert. at ¶ 6.
6. L.E.-K.'s attendance issues date back to the 2024-2025 school year where attendance issues prevented her from getting credit in

three courses: Bio for Allied Health, Science and U.S. History 2. Rewick Cert. at ¶ 8.

7. At that time, to work with L.E.-K and her family, the District waived the attendance requirement for Science and U.S. History 2. Rewick Cert. at ¶ 9.
8. In order to address these attendance concerns for the 2025-2026 school year and further support the student, L.E.-K. was enrolled in the Work Based Learning program which allows students to meet their graduation requirements while permitting them to leave school at 12:05 PM, to go to work. Rewick Cert. at ¶ 10.
9. A component of the Work Based Learning program includes a Work Based Learning course for credit that the student attends in the morning prior to leaving for work in the afternoon. Rewick Cert. at ¶ 11.
10. On or about October 21, 2025, the District began notifying the parent of L.E.-K.'s attendance issues as she had already accumulated 10 absences in English, 6 absences in Math, and 6 absences in Forensic Science as of October 31, 2025, for a year that began on September 4, 2025. Rewick Cert. at ¶ 12.
11. As of the date of the instant Emergent Relief Application, L.E.-K has accumulated 58 absences in English; 60 absences in College Algebra and Discrete Math; 47 absences in Forensic Science; 33 absences in Work-Based Learning; and 16 absences in PE. Rewick Cert. at ¶ 13.
12. 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.” Emphasis added. Rewick Cert. at ¶ 14.
13. Board Policy Regulation 5200 provides that “[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. Rewick Cert. at ¶ 15.

14. The Board policy mandates has one hundred eighty (180) instructional days. Rewick Cert. at ¶ 16.
15. 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. Rewick Cert. at ¶ 17.
16. As such, a student who has been in attendance fewer than 160 days should not be promoted barring extenuating circumstances. Rewick Cert. at ¶ 18.
17. Each year, towards the end of May or early June, the District convenes an attendance review 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 due to absenteeism. Rewick Cert. at ¶ 19.
18. With regard to Seniors, the Committee handles attendance issue with a “soft hand” often making decisions to help Seniors, as much as possible, meet graduation requirements and be able to walk at graduation, including taking off absences to preserve courses that do not run in summer school such as a specific elective, work study, and honoring the efforts of a student who is struggling to overcome life and family issues. Rewick Cert. at ¶ 20.
19. During the 2024-2025 school year, as discussed above, the attendance review committee waived L.E.-K.'s attendance requirements for Science and U.S. History 2. Rewick Cert. at ¶ 21.
20. During the 2025-2026 school year, the attendance review committee could not waive the credit and attendance requirements for L.E.-K.'s English 2 course due to over fifty-five (55) absences at the time the committee reviewed L.E.-K.'s file. Since then, L.E.-K. was absent an additional three (3) days, making her total absences in English 2 fifty-eight (58) days. Rewick Cert. at ¶ 22.

21. Under Board Policy Regulation 5200, a student is permitted thirteen (13) absences per year before their ability to receive credit for a certain course becomes endangered. Rewick Cert. at ¶ 24.
22. L.E.-K. was absent over four times (4x) the allotted thirteen days outlined in Board Policy Regulation 5200. Rewick Cert. at ¶ 25.
23. Due to L.E.-K.'s excessive absences, the attendance review committee determined that L.E.-K. was not able to receive course credit for English 2. Rewick Cert. at ¶ 26.
24. This was communicated to Petitioner via a letter sent on or about May 27, 2026. Rewick Cert. at ¶ 27.
25. Board Policy 5460, with regard to graduation requirements, provides that under N.J.A.C. 6A:8-5.1, for a state-endorsed diploma, the Board of Education shall develop, adopt, and implement graduation requirements that prepare students for success in post-secondary degree programs, careers, and civic life in the 21st century, and that included local student attendance requirements. Rewick Cert. at ¶ 28.
26. Board Regulation 5200 provides that “[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.” Rewick Cert. at ¶ 29.
27. Because L.E.-K.'s absences are far greater than the amount allotted by Board Regulation 5200, L.E.-K. has not met the requirements for a state-endorsed diploma under N.J.A.C. 6A:8-5.1, Rewick Cert. at ¶ 30.
28. During Mr. Rewick’s ten (10) years as Principal of 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. Rewick Cert. at ¶ 31.

29. If a student did not attain the credit/attendance necessary to graduate, they would complete any of the remaining requirements during summer school, or would otherwise repeat the twelfth grade. Rewick Cert. at ¶ 32.

LEGAL ANALYSIS

In accordance with N.J.A.C. 1:1-12.6, emergency relief may be granted "where authorized by law and where irreparable harm will result without an expedited decision granting or prohibiting some action or relief connected with a contested case." My determination in this matter is further governed by the standard for emergent relief set forth by our Supreme Court in *Crowe v. DeGioia*, 102 N.J. 50 (1986), as follows:

The judge may order emergency relief if the judge determines from the proofs that:

1. The petitioner will suffer irreparable harm if the requested relief is not granted.
2. The legal right underlying the petitioner's claim is settled.
3. The petitioner has a likelihood of success 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 relief is not granted.

The moving party must satisfy all four prongs of the Crowe v. DeGioia standard to establish an entitlement to emergent relief. *Id.* at 132-35. For the reasons set forth below, I **CONCLUDE** that petitioner cannot meet their burden under the Crowe v. DeGioia standard.

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. Nabel v. Board of Education of the Township of Hazlet, EDU 8026-09 (June 24, 2009); Tomlin v Lower Cape May Regional Board of Education, EDU 4952-09. A graduation ceremony, once missed, cannot be regained as it is a once in a lifetime event. See K.H. o/b/o M.G. v. Kingsway Regional Bd. of Educ., EDS 06903-11, Decision on Emergent Relief (June 17, 2011); R.C. o/b/o M.C. v. Pemberton Twp. Bd. of Educ., EDS 4212-02, Decision on Emergent Relief, (June 17, 2002). Petitioner passionately argues that her daughter's graduation ceremony is a once in a lifetime opportunity, and no other relief will be able to restore the ceremony to her daughter after the fact. I agree with petitioner and **CONCLUDE** that she has met her burden of demonstrating irreparable harm on this first prong of Crowe. However, petitioner has not demonstrated that she has met the next two prongs of Crowe; that the law is settled in her favor, and that she has a likelihood of succeeding on the merits of her claims. I **CONCLUDE** from the evidence presented the law is well settled in favor of the Board, which has broad discretion to take the actions needed to effectively operate its public schools. The Commissioner will also not substitute his or her judgment for that of the board of education, whose exercise of its discretion may not be disturbed unless shown to be "patently arbitrary, without rational basis or induced by improper motives." Kopera v. W. Orange Bd. of Educ., 60 N.J. Super. 288, 294 (App. Div. 1960). Our courts have held that "[w]here there is 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." Bayshore Sewage Co. v. Dep't of Env'tl. Prot., 122 N.J. Super. 184, 199-200 (Ch. Div. 1973), aff'd, 131 N.J. Super. 37 (App. Div. 1974). Accordingly, at hearing, petitioner would have had to demonstrate that Board's actions were arbitrary, capricious or unreasonable, made in bad faith or in utter disregard of the circumstances before it. T.B.M. v. Moorestown Bd. of Educ., EDU 2780-07, Initial Decision (February 6, 2008).

Taking into consideration the Board's proffered rational for its decision it is highly unlikely that petitioner would be successful in demonstrating the Board acted in an arbitrary or capricious manner in deciding that L.E.-K. did not meet the requisite attendance or credit requirements for graduation. Board Policy 5200 states "[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.” That same Board Policy also indicates that a student is limited to 13 absences per year before their ability to receive credit for a course becomes endangered. The evidence presented at the hearing clearly shows that L.E.-K.’s 58 absences from her English class were almost quadrupled the allowable amount. These documented and excessive absences provided a clear and rational basis for the Board’s decision not to give L.E.-K. credit for her English class which in turn caused her to be under the required credit amount to graduate. I therefor **CONCLUDE** that the Board’s decision to not award L.E.-K. credit for her English course due to her excessive absences was appropriate and that petitioner is not likely to be able to demonstrate that the actions of the Board were induced by improper motives or were taken in utter disregard of the circumstances before it. Accordingly, I also **CONCLUDE** that petitioner has failed to satisfy the second and third prongs of Crowe.

The final prong of Crowe, a balancing of the equities, also weighs against the petitioner. In W.M. O/B/O J.M. v. Bd. of Educ. of the Borough of Jamesburg, Middlesex County, EDU- 06407-14, 2014 N.J. Lexis 309, ALJ Ellen Bass found that when a student seeks permission to participate in a graduation ceremony:

The rights of this petitioner are less weighty than those of the Board because participating in a graduation ceremony is a privilege. See: M.A.A. v Edison Bd. of Educ., EDU 4134-98, Initial Decision (May 29, 1998), aff’d, Comm’r (June 12, 1998), ; N.B. v Gloucester Bd. of Educ., EDU 6740-11 Initial Decision (June 14, 2011). Although I entirely appreciate why he so strongly wishes to attend, [a student] has no right to attend this ceremony, and for this reason petitioner cannot demonstrate a harm weighty enough to tip the balance in favor of a grant of extraordinary relief. Conversely, the Board has a strong and valid interest in the effective and orderly operation of its schools. As the Superintendent of Schools noted in her certification, this is a policy uniformly applied to all eighth grade students, and an exception here would be unfair to J.M.’s classmates and would undermine district policy.
[Id. at pp.8-9]

During the hearing, Mr. Rewick testified that during the entire ten-year period he has served as principal at WHHS, no student has been permitted to participate in a graduation ceremony if they did not have the requisite credits to graduate and an acceptable attendance record. There has been no evidence presented to this tribunal to indicate anything to the contrary. Mr. Rewick also testified that during the graduation ceremony either he or another official at WHHS are required to represent to all who were present that the candidates presented for graduation meet all the necessary standards and requirements for graduation. To allow students who did not meet the necessary graduation requirements to participate in a graduation ceremony where school officials are representing that they have met them would be unfair to those students who did meet those requirements.

Finally, I turn my attention to petitioner's request for additional time to complete online work. Petitioner is seeking to extend the time to complete an online English course she will need to take in order to meet the credit requirements for graduation. At the hearing, petitioner testified that she was communicating with the Board as recently as June 6th to try to find a way she could get credit for her English course. Petitioner maintains that she contacted a company known as Educern to develop a schedule for L.E.-K. to attend and complete an online summer course in English¹. She was told however, that the board needed to set the dates for the online program. Ultimately the Board informed petitioner that they no longer used Educern for summer classes and that the company they were now using had indicated that the classes did not start until June 29th. Accordingly, the Board argues that they do not have the ability to modify the on-line schedule and accelerate the online English course. I Agree and **CONCLUDE** that petitioner's request to extend the completion date for outstanding online courses until June 28th should be denied.

¹ Petitioner testified that the reason she was attempting to accelerate the summer school English program was to eliminate a potential conflict the summer course would cause. L.E.-K. had been accepted into the Occupational Therapy program at Seton Hall University. The program required accepted students to attend a 6-week summer program at the University beginning in late June or early July. Petitioner contends that it would be difficult and unfair to require that L.E.-K complete her online English course at the same time she was beginning her mandatory summer college program.

There has been no credible evidence presented that indicates the Board is treating L.E.-K. any different than any other student that needs to attend summer school to gain the necessary credits to advance to the next grade level. There has also been no proof provided that would indicate that the start date for the online program could be moved up so it wouldn't interfere with the summer program at Seton Hall. If petitioner wants to pursue the Occupational Therapy Program at Seton Hall, she will need to complete her online English course to obtain the necessary credits to graduate from WHHS. L.E.-K. has 2 choices: Either take the on-line course while you are attending Seton Hall or deferring your acceptance to the Seton Hall program until her high school coursework is completed. Furthermore, there has been no evidence presented to show that the online course could even be completed before June 28th which is only 4-days from the date of this Initial Decision.

IT IS on this 24th day of June, 2026 **ORDERED** that petitioner's request for emergency relief is hereby **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

A handwritten signature in cursive script that reads "William Courtney". The signature is written in black ink and is positioned above a horizontal line.

WILLIAM COURTNEY, ALJ

WJC/db

PAPERS CONSIDERED

From petitioner:

1. June 23, 2026 email from Petitioner containing her post hearing submission.

From respondent:

1. June 22, 2026 Certification of Micheal Rewick in Support of Respondent's Opposition to Petitioner's Request for Emergent Relief.
2. June 22, 2026 Letter Brief from respondent