

227-26E  
OAL Dkt. No. EDU 07698-26  
Agency Dkt. No. 184-05-26

**New Jersey Commissioner of Education**  
**Order on Emergent Relief**

Brian Pincus,

Petitioner,

v.

Robbinsville Board of Education, 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: June 25, 2026  
Date of Mailing: June 25, 2026



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**ORDER DENYING**

**EMERGENT RELIEF**

OAL DKT. NO. EDU 07698-26

AGENCY DKT. NO. 184-05-26

**BRIAN PINCUS,**

Petitioner,

v.

**ROBBINSVILLE BOARD OF EDUCATION,**

**MERCER COUNTY,**

Respondent.

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**Brian Pincus**, petitioner, pro se

**Patrick F. Carrigg**, Esq., for respondent, Robbinsville Board of Education  
(Lenox Law Firm, LLC, attorneys)

BEFORE **SARAH G. CROWLEY**, ALJ:

Petitioner Brian Pincus seeks an Order requiring respondent Robbinsville Board of Education (Board or District) to provide transportation for non-remote students attending its school who had previously been provided courtesy busing under the hazardous-route designation. Respondent opposes this action on the grounds that the District has no legal obligation to provide transportation to remote students. Moreover, although courtesy busing had been provided to remote students designated in

hazardous areas, all courtesy busing was eliminated in the 2026–2027 budget, which was adopted in April 2026.

### **PROCEDURAL HISTORY**

A petition was filed by Pincus on May 17, 2026, requesting that the Robbinsville Board of Education continue to provide courtesy busing to remote students. The matter was transmitted to the Office of Administrative Law on May 15, 2026. N.J.S.A. 52:14B-1 to B-15; N.J.S.A. 52:14F-1 to F-3. Respondent filed opposition to the petition, and petitioner filed a reply to the opposition. Oral argument was heard on May 27, 2026, and the record closed on that date. The underlying due process case will proceed on a non-emergent track.

### **FINDINGS OF FACT**

Having reviewed the papers in support of and in opposition to the request for emergent relief, I **FIND** the following **FACTS**:

1. Petitioner is a resident of Robbinsville, N.J., and has filed an emergent application seeking to have the Robbinsville Board of Education provide courtesy busing to remote students.
2. Courtesy busing had been provided to remote students under N.J.A.C. 6A:27-1.4(a) and N.J.S.A. 18A:39-1.8.
3. In April 2026 the District adopted a budget for the 2026–2027 school year that eliminated all courtesy busing for the 2027-2027 school year.

### **DISCUSSION AND CONCLUSIONS OF LAW**

Under N.J.S.A. 18A:6-9, the Commissioner’s jurisdiction is defined and is limited to “controversies and disputes arising under the school laws.” In Dunellen Board of Education v. Dunellen Education Association, 64 N.J. 17, 23 (1973), the New Jersey

Supreme Court concluded that “the Legislature enacted provisions entrusting school supervision and management to local school boards . . . subject to the supervisory control [of] . . . the State Commissioner of Education.”

The regulations governing such 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 or any other party subject to the jurisdiction of the Commissioner, 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).

N.J.A.C. 6A:3-1.6(b) sets forth the standards governing motions for emergent relief and instructs:

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

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.

The moving party must demonstrate each element “clearly and convincingly.” Waste Mgmt. of N.J. v. Union Cnty. Utils. Auth., 399 N.J. Super. 508, 520 (App. Div. 2008). Emergent relief is designed “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 (citation omitted).

### Irreparable Harm

Harm is generally considered irreparable if monetary damages cannot adequately redress it. Id. at 132–33. In other words, irreparable harm is 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). A claimant must demonstrate more than a risk of irreparable harm. Continental Group, Inc. v. Amoco Chems. Corp., 614 F.2d 351, 359 (3d Cir. 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 the common law.” Ibid. (citation omitted).

Petitioner argues that many of the non-remote students will be forced to walk on unsafe routes and risk harm, injury, or death. The Board counters that the regulations and statutes do not mandate busing for non-remote students. Moreover, the parents can drive the students or pay for alternate transportation. There has been no showing of substantial, immediate, or irreparable harm.

I agree with the Board’s argument, and I **CONCLUDE** that petitioner has not satisfied the burden as to irreparable harm. Emergent relief “should not be entered except when necessary to prevent substantial, immediate and irreparable harm.” Subcarrier Commc’ns, Inc. v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997).

### Settled Legal Right

Emergent relief “should be withheld when the legal right underlying plaintiff’s claim is unsettled.” Crowe, 90 N.J. at 133 (citing Citizens Coach Co. v. Camden H. R. Co., 29 N.J. Eq. 299, 304–05 (E. & A. 1878)). The issue in this case is whether

Robbinsville is obligated to continue to provide “courtesy busing” on those routes that were previously designated as “hazardous routes.” It is well settled that districts have an obligation to provide transportation to public-school students who reside remote from their assigned school of attendance. “Remote” is defined as beyond two miles for elementary school students and beyond two and one-half miles for high school students. N.J.A.C. 6A:27-1.3(a)(1)(i). “District boards of education may provide for the transportation of students who reside less than remote from their school in accordance with district board of education policies and at the school district’s expense.” N.J.A.C. 6A:27-1.4(a).

When a district provides courtesy busing, the district must adopt a policy regarding the transportation of students who must walk to and from school along hazardous routes. The policy shall include a list of hazardous routes in the district requiring the courtesy busing of students and the criteria used in designating the hazardous routes, which may include the following:

1. Population density;
2. Traffic volume;
3. Average vehicle velocity;
4. Existence or absence of sufficient sidewalk space;
5. Roads and highways that are winding or have blind curves;
6. Roads and highways with steep inclines and declines;
7. Drop-offs that are in close proximity to a sidewalk;
8. Bridges or overpasses that must be crossed to reach the school;
9. Train tracks or trestles that must be crossed to reach the school; and
10. Busy roads or highways that must be crossed to reach the school.

[N.J.S.A. 18A:39-1.5(a).]

Consistent with the foregoing statute and regulations, Robbinsville provided courtesy busing for a number of years. However, due to budget constraints, all courtesy busing was eliminated in the 2026–2027 school budget, which was adopted in April 2026. However, there is no continuing obligation to provide such busing and the 2026-2027 budget eliminated this courtesy busing.

Petitioner argues that because these routes had previously been designated as hazardous, the Board has a continuing obligation to provide courtesy busing. However, there is no support for this argument. Petitioner's reliance on Holland is misplaced. G.S. v. Board of Education of Holland Township, No. 148-20, Comm'r (July 16, 2020), <https://www.nj.gov/education/legal/>, stands for the proposition that when you provide such courtesy busing, or remove it, it must be done equitably. In this case, all courtesy busing has been eliminated and there is no legal support for requiring such busing for non-remote students.

I therefore **CONCLUDE** that petitioner has not met his burden of establishing that the legal right underlying his claim is settled.

#### Likelihood of Success on the Merits

Under the third emergent-relief standard, "a plaintiff must make a preliminary showing of a reasonable probability of ultimate success on the merits." Crowe, 90 N.J. at 133 (citing Ideal Laundry Co. v. Gugliemone, 107 N.J. Eq. 108, 115–16 (E. & A. 1930)). This requirement is often implicitly tied to whether the right to the underlying claim is settled.

A presumption of lawfulness and good faith applies to a board of education's actions. In challenges to board actions, the challenger bears the burden of proving that such acts were unlawful, arbitrary, capricious, or unreasonable. Schuster v. Bd. of Educ. of Montgomery Twp., 96 N.J.A.R.2d (EDU) 670, 676 (citing Schnick v. Westwood Ed. of Educ., 60 N.J. Super. 448 (App. Div. 1960), and Quinlan v. Bd. of Educ. of North Bergen Twp., 73 N.J. Super. 40 (App. Div. 1962)).

The "arbitrary, capricious and unreasonable" standard of review imposes a heavy burden on challengers of board actions, and "means having no rational basis." Piccoli v. Bd. of Educ. of Ramapo Indian Hills Reg'l Sch. Dist., 1999 N.J. AGEN LEXIS 20, Initial Decision (January 22, 1999), adopted, 1999 N.J. AGEN LEXIS 1314 (March 10,

1999) (citing Bayshore Sewage Co. v. Dep't of Env'tl. Protection, 122 N.J. Super. 184, 199–200 (Ch. Div. 1973), aff'd, 131 N.J. Super. 37 (App. Div. 1974)).

In support of his argument, petitioner again relies upon the prior designation of hazardous routes to create a legal obligation to continue such courtesy busing. However, neither the regulations, the statute, nor any case law supports such a legal obligation on the school district. Moreover, there has been no showing that the elimination of such busing was arbitrary, capricious or unreasonable. The prior offering of courtesy busing does not create a legal obligation to continue to provide such busing. Moreover, the statute and regulations are clear that districts are not obligated to provide, or continue to provide, courtesy busing to non-remote students.

Therefore, I **CONCLUDE** that petitioner does not meet the third prong of the emergent-relief standard.

#### Balancing of the Equities

Lastly, petitioner fails to meet the fourth emergent-relief standard, which involves “the relative hardship to the parties in granting or denying relief.” Crowe, 90 N.J. at 134 (citing Isolantite, Inc. v. United Elect. Radio & Mach. Workers, 130 N.J. Eq. 506, 515 (Ch. 1941), mod. on other grounds, 132 N.J. Eq. 613 (E. & A. 1942)).

Petitioner argues that the safety of the students should prevail on the balancing of the equities. However, without any legal basis for such relief and no demonstration of immediate and irreparable harm, I **CONCLUDE** that petitioner has failed to demonstrate such harm.

Therefore, for all the foregoing reasons, I **CONCLUDE** that petitioner has not demonstrated entitlement to the emergent relief requested, since he has not satisfied the four prongs of the test.

**ORDER**

It is **ORDERED** that petitioner's application for emergent relief is **DENIED**. This case will continue to a plenary hearing, the schedule to be determined at a later date, to address the merits of the underlying petition.

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 on the application for emergent relief shall be issued without undue delay, but no later than forty-five (45) 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 decision on the issue of emergent relief in accordance with N.J.S.A. 52:14B-10.

May 28, 2026 \_\_\_\_\_  
DATE

  
\_\_\_\_\_  
SARAH G. CROWLEY, ALJ

Date Received at Agency: \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_

SC/ol  
c: Clerk OAL-T

**DOCUMENTS RELIED UPON**

- Petitioner's and Respondent's petition, opposition, and reply papers