

Decision No. 345-26E
OAL Dkt. No. EDU 13053-26
Agency Dkt. No. 321-07-26

New Jersey Commissioner of Education
Final Decision on Emergent Relief

M.C. and G.C., on behalf of minor child, G.C.,

Petitioners,

v.

Sterling High School District Board of Education,
Camden County,

Respondent.

The record of this emergent matter and the Order Granting Emergent Relief of the Administrative Law Judge (ALJ) have been reviewed. Upon such review, the Commissioner concurs with the ALJ that petitioners have demonstrated entitlement to emergent relief pursuant to the standards enunciated in *Crowe v. DeGioia*, 90 N.J. 126 (1982), and codified at N.J.A.C. 6A:3-1.6.

Accordingly, the petitioners' application for emergent relief is granted. 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: September 2, 2026
Date of Mailing: September 2, 2026



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

**ORDER ON EMERGENT
MOTION**

OAL DKT. NO. EDU 13053-26

AGENCY DKT. NO. 321-07-26

M.C. AND G.C. ON BEHALF OF G.C.,

Petitioners,

v.

STERLING HIGH SCHOOL BOARD OF

EDUCATION,

Respondent.

M.C. and G.C., pro se

William Morlok, Esq., for respondent Sterling High School District Board of
Education (Gorman D'Anella & Morlok, attorneys)

BEFORE **ROBERT D. HERMAN, ALJ:**

STATEMENT OF THE CASE

X.X. currently lives with her paternal grandparents, M.C. and G.C. (petitioners), in their Somerdale Township home.¹ In early December 2025, A.F., X.X.'s mother, kicked

¹ There are three people who have the identical initials of "G.C." For legibility purposes, the minor child shall be referred to as "X.X." and petitioner G.C.'s son, X.X.'s father, shall be referred to as "G.C.2." No disrespect is intended as to any of these three individuals.

X.X. out of her Clementon Township home, directing her to live with M.C. From early December 2025 through the date of this decision, with the exception of one week in March 2026, X.X. lived unabated with M.C. and G.C. Instability in March 2026 caused police and the New Jersey Department of Children and Families', Division of Child Protection and Permanency (DCP&P's), involvement with X.X. After returning to A.F.'s home for approximately one week, DCP&P placed X.X. in M.C. and G.C.'s home, where she has remained since. For the entire 2025-26 school year, X.X. attended Highland High School, the local public school for Clementon. At the conclusion of the 2025-26 school year, petitioners attempted to enroll X.X. with their local school district, Sterling High School Board of Education (Sterling/Sterling High School). (P-1 at 3.) Sterling denied admission and petitioners seek to compel it via an emergent hearing. (P-1.) Were petitioners able to meet the four-part test for emergent relief set forth in N.J.A.C. 6A:3-1.6? Under the unusual circumstances presented, and especially considering the weight attributed to DCP&P placing X.X. in petitioners' Somerdale home, petitioners were able to demonstrate by clear and convincing evidence that irreparable harm will likely result if the requested relief is denied; the legal right underlying the claim is settled; petitioners have a likelihood of prevailing on the merits of the underlying claim; and on balance, petitioners/X.X. will suffer greater harm than the respondent if the requested relief is not granted.

PROCEDURAL HISTORY

In or about early July 2026, petitioners sought to enroll X.X. in Sterling High School. (P-1 at 3.) On July 8, 2026, Jarod Claybourn, principal at Sterling High School, advised petitioners that, in order to enroll X.X., Sterling would require a notarized affidavit signed by A.F. authorizing X.X. to reside with petitioners; a placement letter from DCP&P; or a court order awarding petitioners custody or guardianship. (Ibid.) Principal Claybourn's letter was underscored in a subsequent, undated letter by Sterling Superintendent, Matthew Sheehan. (P-1 at 16.) On July 22, 2026, petitioners filed the instant appeal with the New Jersey Commissioner of Education. (P-1 at 2.) On August 7, 2026, the underling and emergent matter(s) were transmitted to the Office of Administrative Law (OAL), where it was filed as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

This matter was originally scheduled for an emergent hearing consistent with N.J.A.C. 6A:3-1.6 (Emergent Relief or Stay) on August 18, 2026. Due to the nature of the matter and in particular, the relief sought, upon its receipt on August 10, 2026, I scheduled the matter for an initial conference in the afternoon of August 12, 2026.

On August 12, 2026, petitioners and Sterling's counsel appeared. To ensure all appropriate parties were able to participate, I requested that Sterling's counsel contact A.F. to advise of the hearing then scheduled for Tuesday, August 18, 2026. On August 12, 2026, consistent with my direction, Sterling's counsel advised A.F. regarding the upcoming August 18, 2026, hearing, and to which A.F. responded later that evening. (Doc 1.) In the early afternoon of August 14, 2026, Sterling submitted its prehearing brief, and A.F. was copied on that submission. (Doc 2.) Then between Saturday, August 15, 2026, through Tuesday, August 18, 2026, A.F. sent approximately seventeen emails, many of which contained attachments, to the OAL. (TP-1.)

Of the approximately seventeen emails sent by A.F., few were transmitted to Sterling's counsel and none were copied to petitioners. Both petitioners and Sterling's counsel appeared before me on August 18, 2026. However, A.F. did not appear, nor did she seek to participate remotely on that date.² (Docs 1-4.) After a brief colloquy with the parties regarding A.F.'s emails, and then their subsequent transmission to the parties, both requested sufficient time to conduct a review. Accordingly and at the parties' joint request, the matter was continued to Wednesday afternoon, August 19, 2026.

In the evening hours of Tuesday, August 18, 2026, A.F. made application to appear remotely for the hearing the following day. (Doc 5.) Due to my concern for her participation, I permitted A.F. to appear remotely via Zoom, while petitioners, respondent, and X.X., all appeared in person. During the hearing on August 19, 2026, and at my direction to provide clarity as to the facts, testimony was adduced from A.F., M.C., and

² A.F. claimed in her August 18, 2026, email (transmitted at 7:12 p.m.) that she was not notified regarding the August 18, 2026, hearing date. (Doc 4 at 1) (stating, "How come I was never notified about the first hearing? I will be available by telephone. I have a 12yr old [sic] son to look after.").

X.X., and arguments on the motion were made. At its conclusion late in the day, I reserved decision. Following that reservation, petitioners and A.F. made additional, argumentative submissions. Upon acceptance for their argument and not the factual allegations asserted therein, the hearing record was closed on Friday, August 21, 2026.³

Consistent with N.J.A.C. 6A:3-1.6, this decision now follows.

FINDINGS OF FACT

Having had the opportunity to listen closely to the testimony, examine the evidence submitted, and make determinations of credibility, I **FIND** the following:

I. Credibility.

For the three witnesses who testified, in order, **A.F.**, **M.C.**, and **X.X.**, I have questions regarding each witness's veracity; that is, their respective propensity to tell the truth.

A.F. testified by Zoom. Though A.F. presented her testimony through remote video, I was able to observe the usual markers one utilizes to determine truthfulness, such as body language, speech usage, intonation, speed of response, evasiveness, and perhaps most importantly here, consistency. A.F.'s August 18, 2026, email claiming she was unaware of the hearing that date—though she was made aware of it on August 12, 2026, and then submitted seventeen emails prior to the August 18th date—was not lost on me. A.F.'s failure to appear on August 18, 2026, her failure to request to appear remotely on August 18, 2026, and the claim that she was unaware of the hearing on August 18, 2026, in whole or in part, did not bear much weight, if any, towards my credibility determination, but it was consistent with the overall perception of her testimony. In particular, A.F. was at times evasive, and I often found her answers to be selective. At

³ The factual record was closed on Wednesday, August 19, 2026, at the close of testimony and upon receipt of the requested Domestic Violence Final Restraining Order (FRO). On August 21, 2026, an email was sent to the parties advising that the record had closed; however, upon reconsideration, I have permitted the record to remain open to receive the subsequent submissions from petitioners and A.F., solely as to arguments for their respective positions.

best, her testimony regularly appeared self-serving or designed to cause a particular result; at worst, it was periodically false, both in factum and by omission. For example, and perhaps most egregiously, A.F.'s initial testimony was that X.X. "ran away" on December 5, 2025, and that after returning, X.X. left her residence in March or April 2026. I **FIND** that A.F. testified falsely and intentionally omitted that she evicted X.X. from her residence on December 5, 2025, packing X.X.'s belongings into trashbags and telling her (X.X.) to live with M.C. This was far astray from the collective testimony that X.X. "left with M.C." Further, I **ALSO FIND** that A.F. intentionally omitted that while X.X. temporarily came back to A.F.'s residence in March or April 2026, one week later, DCP&P returned X.X. to M.C. and G.C.'s Somerdale home.⁴

There were other instances of convenient omittance and questionable testimony. For example, A.F. had a tendency to overstate her actions and minimize the difficulties X.X. faced. This included the December 5, 2025, writing from X.X.'s guidance counselor, who noted that X.X. suffered from depression and had a history of self-injury. (TP-1 at 15.) Moreover, after claiming that registering X.X. at Sterling, rather than Highland, would be detrimental to X.X., when asked why, A.F. testified twice that she (A.F.) would not be allowed to attend X.X.'s graduation. It was only after repeated instruction that A.F. was able to provide a response not involving herself. While not directly related to credibility, at a minimum, it raises significant questions regarding A.F.'s perceptions.

Overall, when taking into consideration A.F.'s intonation, speed of response, tonality, body language, and of course, her specific responses, I **DO NOT FIND** A.F. to be credible. That is not to say I am completely discounting all of A.F.'s testimony. Rather, it must be viewed closely, parsed where appropriate, and when confirmed or against interest, considered. Moreover, from an examination of the tenor and dubious substance of A.F.'s emails to the OAL, specifically those of a gratuitously sexual nature and which formed, in significant part, the basis of an Order to Seal in this matter, A.F.'s motive is suspect, and it does not go unnoticed that it may have contaminated her testimony.

⁴ This fact was uncontested at the hearing.

I also have concern with **M.C.’s** testimony, though to a lesser degree than with A.F.’s. It is patently obvious there is an adverse history between M.C. and A.F., one which affects the tone of M.C.’s responses. This background was a consistent theme and provided an additional baseline upon which to consider M.C.’s truthfulness. For the most part, M.C.’s testimony came across as mildly nervous, perhaps anxious, but not of sufficient significance to raise concern as to veracity. There were other concerns, however. For example, when speaking regarding her son, G.C.2., M.C.’s tenor, speed of response, and content of her testimony raised awareness as to potential fabrication or inaccuracy. While in her testimony M.C. did relate that G.C.2 had previous issues with alcohol abuse, and there was previously police involvement with him in her home, the substance and delivery of testimony involving G.C.2 did not come across as complete nor entirely forthright. Add to this, there was an FRO in place limiting G.C.2’s contact with X.X., which M.C. appeared to, at best, minimize, and at worst, enable its probable violation. And when examining the distance between petitioner’s home and where G.C.2 resides, utilizing Google Maps, it is less than one hundred feet—noticeably, far less than the two hundred to four hundred feet to which M.C. testified.

Overall, I **FIND** M.C.’s testimony to be generally credible. With the exception of testimony relating to her son and perhaps inaccurately denoting the travel time between her home and Highland High School, the majority of her testimony was reflected either accurately, or at least accurately as perceived. Not completely dissimilar than A.F.’s—though not to the same degree—where it relates to X.X. and does not involve G.C.2, I **FIND** M.C.’s testimony to be mostly reliable, meaning that it still requires careful review and comparison. Where it involves G.C.2, however, I **DO NOT FIND** M.C.’s testimony to be generally credible; rather, I **FIND** it to be, at best, borderline credible. Accordingly, testimony relating to G.C.2 requires heightened scrutiny which leans towards distrusting its veracity.

X.X. also provided testimony in this emergent matter. Of the three, X.X.’s testimony was the most credible of the appearing witnesses. That is not to say it was perfect by any means. In particular, X.X. testified that the reason she wished to enroll at Sterling because she “lives in the district.” I **DO NOT FIND** that answer to be particularly credible, if at all. Based on the body language and tonality, it was clearly a prepared and

rehearsed answer. Moreover, it was far astray from the answer one would expect, i.e. in one's common experience, that a sixteen-year-old high school student would expectedly project absent preparation. This determination is further accentuated by X.X.'s tonality and body language while testifying, both of which clued incredulity. As to the remainder of X.X.'s testimony, I **FIND** her to be mostly credible. There were minor portions of her testimony which I do not believe, such as her commitment or willingness for therapy. The same where a letter recanting a prior statement X.X. made to police was utilized during examination.

Put simply, and when considered in toto, X.X.'s testimony may be categorized as "imperfect." But overall, if anything, X.X. presented as a sixteen-year-old with a complex history, and one who finds herself in a difficult circumstance. Her testimony exhibited this and supports the determination set forth above.

II. The Relevant Facts.

X.X. presents as a sixteen-year-old, matriculating high school junior, who comes from a particularly difficult family background. Starting at a young age, X.X., the child of A.F. and G.C.2,⁵ was exposed to a world of substance abuse and addiction, FROs, DCP&P involvement, and an unstable home life. Unsurprisingly, X.X. reportedly has issues consistent with trauma, including depression and has previously self-harmed.

In the Fall 2015, A.F. sought a New Jersey Domestic Violence Restraining Order as against G.C.2. (TP-1 at 14.) At the conclusion of proceedings, A.F. was awarded the FRO, as well as physical and legal custody of X.X. Since its inception, the FRO was amended three times, the last of which occurred in October 2024. (TP-1 at 15, 17.) Set forth in the latest amended FRO, A.F.'s custody of X.X. was maintained, with X.X. also being added as a protected party—meaning that G.C.2 was forbidden from having contact with X.X.⁶ Additionally, on April 17, 2025, under a separate "FD Docket," the Superior

⁵ A.F. is X.X.'s biological mother, G.C.2 is X.X.'s biological father, and M.C. and G.C. are X.X.'s paternal grandparents.

⁶ The language of the FRO was specific: "Defendant shall have no contact with the minor child [X.X.]" (TP-1 at 15.)

Court of New Jersey, Chancery Division-Family Part, Camden County, entered an Order awarding A.F. with “sole temporary physical and legal custody of [X.X.]. . . .” (TP-1 at 13) (emphasis added).⁷

In December 2025, X.X. was living with A.F. in Clementon. Following what appears to be a minor dispute on December 5, 2025, A.F. placed X.X.’s belongings into trash bags and evicted X.X. by text message from her Clementon home. (P-1 at 30-32.) From there, X.X. went to live with M.C. and G.C. in Somerdale. In March 2026, after a significant violation of M.C. and G.C.’s household rules, one in which the local police were involved, X.X. returned briefly to A.F.’s Clementon residence. DCP&P were again engaged and, after a week, DCP&P placed X.X. back with M.C. and G.C., where she has remained through the hearing date. From December 5, 2025, through the date of the hearing, A.F. has not sought the Family Court’s assistance with X.X.’s custody.

During the Academic Year 2025-26, from September 2025, through the time of her displacement in March 2026, and through the remainder of the school year, X.X. was a Highland High School student. While living in Somerdale from December 2025 onward, with the exception of the aforementioned one week, M.C. and G.C. drove X.X. to Highland High School so that she may complete her sophomore year. From all appearances, through mid-year, X.X.’s performance was of mixed result, with most grades in the A, B, and C-range, and two Fs in the second-quarter marking period. (TP-1 at 62.) During the third marking period, while living with M.C. and G.C., X.X.’s grades noticeably improved, moving up substantially in the two classes she previously failed. (Ibid.)

At M.C. and G.C.’s Somerdale home, X.X. maintains her own bedroom and bathroom. (P-1 at 41.) By all appearances, she has settled into a routine and comfortable living arrangement. Additionally, X.X. has established local friendships in Somerdale with B., K., R., R.2, and A., all of whom attend Sterling High School.⁸

⁷ Only the second page of the April 17, 2025, Superior Court Order was provided.

⁸ First initials of the children are utilized to maintain anonymity.

G.C.2 resides less than one-hundred feet from M.C. and G.C.'s home. (TP-1 at 43.) G.C.2 is generally unrestrained as to his access with X.X.—facts which were testified to at length during examination—with the only limitation being when G.C.2 is experiencing insobriety. Criminal charges against G.C.2 relating to allegedly assaulting X.X. apparently resolved by plea in Spring 2026.⁹

M.C. and G.C.'s Somerdale home is within the Sterling High School Board of Education School District. That X.X. lives full-time and exclusively with M.C. and G.C. is not in question. In early July 2026, M.C. and G.C. sought to enroll X.X. in Sterling High School. On July 8, 2026, Jarod Claybourn, principal at Sterling High School, advised petitioners that, in order to enroll X.X., Sterling would require a notarized affidavit, signed by A.F., authorizing X.X. to reside with petitioners; a placement letter from DCP&P; or a court order awarding petitioners custody or guardianship. (P-1 at 3.) Sterling's Superintendent, Matthew Sheehan, sent a subsequent, undated letter to M.C. and G.C. corroborating Principal Claybourn's July 8, 2026, request and underscoring Sterling's position. (P-1 at 16.)

Sterling High School is less than a mile from M.C. and G.C.'s home—walking distance—facilitating X.X.'s attendance, including during inclement weather. Highland High School is about five and a half miles from M.C. and G.C.'s home, requires vehicular transportation, and takes between ten to fifteen minutes each way. At present, X.X. wishes to continue living with her grandparents and attend Sterling for the upcoming 2026-27 Academic Year. A.F. is opposed, claiming—twice—that the reason is, inter alia, she (A.F.) would not be permitted to attend X.X.'s graduation and that being “the new kid in school” would adversely affect X.X.'s mental health. From December 5, 2025, to present, A.F. has not sought to enforce the April 2025 Superior Court custody order, nor has she made attempts to X.X. to A.F.'s home. A.F. remains steadfast that X.X. should remain at Highland High School and refuses to assist in any endeavor which would allow X.X. to attend Sterling.

⁹ Copies of the charges were not provided.

DISCUSSION AND LEGAL ANALYSIS

The pursuit of interlocutory, emergent relief is controlled by N.J.A.C. 6A:3-1.6. Pursuant to N.J.A.C. 6A:3-1.6(b) (Emergent Relief or Stay):

- (b) 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.

Consistent with N.J.S.A. 18A:38-1:

Public schools shall be free to the following persons over five and under 20 years of age:

- a. Any person who is domiciled within the school district;
- b. (1) Any person who is kept in the home of another person domiciled within the school district and is supported by such other person gratis as if he were such other person's own child, upon filing by such other person with the secretary of the board of education of the district, if so required by the board, a sworn statement that he is domiciled within the district and is supporting the child gratis and will assume all personal obligations for the child relative to school requirements and that he intends so to keep and support the child gratuitously for a longer time than merely through the school term, and a copy of his lease if a tenant, or a sworn statement by his landlord acknowledging his tenancy if

residing as a tenant without a written lease, and upon filing by the child's parent or guardian with the secretary of the board of education a sworn statement that he is not capable of supporting or providing care for the child due to a family or economic hardship and that the child is not residing with the resident of the district solely for the purpose of receiving a free public education within the district. The statement shall be accompanied by documentation to support the validity of the sworn statements, information from or about which shall be supplied only to the board and only to the extent that it directly pertains to the support or nonsupport of the child. . . .

. . . .

e. Any person for whom the Division of Youth and Family Services in the Department of Children and Families is acting as guardian and who is placed in the district by the division;

f. Any person whose parent or guardian moves from one school district to another school district as a result of being homeless and whose district of residence is determined pursuant to section 19 of P.L.1979, c.207 (C.18A:7B-12). . . .

Additionally, under N.J.S.A. 18A:38-2:

Public schools shall be free to any person over five and under 20 years of age nonresident in a school district who is placed in the home of another person, who is resident in the district, by order of a court of competent jurisdiction of this state or by any society, agency or institution incorporated and located in this state having for its object the care and welfare of indigent, neglected or abandoned children, or children in danger of becoming delinquent, or any person who is a resident in any institution operated, by any such society, agency or corporation, on a nonprofit basis, whether or not such other person, society, agency or institution is compensated for keeping such person; but no district shall be required to take an unreasonable number of persons under this section except upon the order of the commissioner issued in accordance with rules established by the state board.

The Rules set forth at N.J.A.C. 6A:22-1.1 et seq. were adopted to implement N.J.S.A. 18A:38-1a to -1e and are to be "liberally construed so as to effectuate a student's consitional and statuory right to a free education." N.J.A.C. 6A:22-1.1(a); N.J.A.C.

6A:22-1.1(c). As explained at N.J.A.C. 6A:22-3.1 (Students Domiciled within the School District):

(a) A student is eligible to attend a school district if the student is domiciled within the school district.

1. A student is domiciled in the school district when the student is the child of a parent or guardian whose domicile is located within the school district.

i. When a student's parents or guardians are domiciled within different school districts and there is no court order or written agreement between the parents designating the school district of attendance, the student's domicile is the school district of the parent or guardian with whom the student lives for the majority of the school year. This subparagraph shall apply regardless of which parent has legal custody.

. . . .

iii. When a student is living with a person other than a parent or guardian, nothing in this section is intended to limit the student's right to attend school in the parent or guardian's school district of domicile pursuant to this chapter.

. . . .

4. A student is domiciled in the school district when the student's parent or guardian resides within the school district on an all-year-round basis for one year or more, notwithstanding the existence of a domicile elsewhere.

5. A student is domiciled in the school district if the Department of Children and Families is acting as the student's guardian and has placed the student in the school district.

Under N.J.A.C. 6A:22-3.2 (Other Students Eligible to Attend School):

(a) A student is eligible to attend the school district pursuant to N.J.S.A. 18A:38-1.b if the student is kept in the home of a person other than the student's parent or guardian, and the person is domiciled in the school district and is supporting the student without remuneration as if the student were the person's own child.

1. A student is not eligible to attend a school district pursuant to this provision unless:

i. The student's parent or guardian has filed, together with documentation to support its validity, a sworn statement that the parent or guardian is not capable of supporting or providing care for the student due to family or economic hardship and the student is not residing with the other person solely for the purpose of receiving a free public education; and

ii. The person keeping the student has filed, if so required by the district board of education:

(1) A sworn statement that the person is domiciled within the school district, is supporting the child without remuneration and intends to do so for a time longer than the school term, and will assume all personal obligations for the student pertaining to school requirements; and

(2) A copy of the person's lease if a tenant, a sworn landlord's statement if residing as a tenant without written lease, or a mortgage or tax bill if an owner.

2. A student shall not be deemed ineligible pursuant to this subsection because required sworn statement(s) cannot be obtained when evidence is presented that the underlying requirements of the law are being met, notwithstanding the inability of the resident or student to obtain the sworn statement(s).

3. A student shall not be deemed ineligible pursuant to this subsection when evidence is presented that the student has no home or possibility of school attendance other than with a school district resident who is not the student's parent or guardian but is acting as the sole caretaker and supporter of the student.

4. A student shall not be deemed ineligible pursuant to this subsection solely because a parent or guardian gives occasional gifts or makes limited contributions, financial or otherwise, toward the student's welfare provided the resident keeping the student receives from the parent or guardian no payment or other remuneration for regular maintenance of the student.

.....

(e) A student is eligible to attend the school district if the student is placed by court order or by a society, agency, or institution in the home of a school district resident pursuant to N.J.S.A. 18A:38-2. As used in this subsection, "court order"

shall not encompass orders of residential custody under which claims of entitlement to attend a school district are governed by the provisions at N.J.S.A. 18A:38-1 and the applicable standards set forth in this chapter.

. . . .

(h) In accordance with N.J.S.A. 18A:38-1.1, a student who is not considered homeless pursuant to N.J.S.A. 18A:7B-12 and who moves to a new school district during the academic year as a result of a family crisis shall be permitted to remain enrolled in the original school district of residence for the remainder of the school year without the payment of tuition. A student attending an academic program during the summer, who is otherwise eligible except for the timing of the move, shall be permitted to remain in the school district for the remainder of the summer program if it is considered an extension of the preceding academic year.

1. For purposes of this subsection, "family crisis" shall include, but not be limited to:

- i. An instance of abuse such as domestic violence or sexual abuse;
- ii. A disruption to the family unit caused by death of a parent or guardian; or
- iii. An unplanned displacement from the original residence such as fire, flood, hurricane, or other circumstances that render the residence uninhabitable.

[Emphasis added.]

Turning to the matter at bar, it is important to keep in mind that the law is to be liberally construed to effectuate the laudable goals of providing a free public education to New Jersey's children and to those in crisis seeking refuge within her borders. See generally N.J.A.C. 6A:22-1.1(c). As directed by N.J.A.C. 6A:3-1.6(b), the equitable relief factors set forth in Crowe v. DeGioia, 90 N.J. 126 (1982), are to be considered in determining whether relief should be granted or denied.

In Crowe, "New Jersey has long recognized, in a wide variety of contexts, the power of the judiciary to 'prevent some threatening, irreparable mischief, which should be averted until opportunity is afforded for a full and deliberate investigation of the case.'"

Crowe v. DeGioia at 132 (quoting Thompson, Attorney General v. Paterson, 9 N.J. Eq. 624 (E. & A. 1854)). “In acting only to preserve the status quo, the court may ‘place less emphasis on a particular Crowe factor if another greatly requires the issuance of a remedy.’” Brown v. City of Paterson, 424 N.J. Super. 176, 183 (App. Div. 2012) (quoting Waste Mgmt. of New Jersey, Inc. v. Union Cnty. Mun. Utilities Auth., 399 N.J. Super. 508, 520 (App. Div. 2008)). More specifically, the Crowe factors are not set as absolutes—weights and counterweights on a balancing scale. Rather, they are fluid in their application, with factors receiving various assignment under a particular set of facts and circumstances. See, e.g., Waste Management of New Jersey, Inc., 399 N.J. Super. at 520-21 (App. Div. 2008).

Factors I and II. Settled Legal Right; Likelihood of Success on the Merits.

There are two parts which are the foci of these factors. The first and most obvious is that, under the last Superior Court Order in April 2025, A.F. was provided legal and physical custody of X.X. If that were the sole fact in this entry, petitioners’ requested relief would end. However, on the opposite side, there are two facts which push heavily in petitioners’ favor. First, on December 5, 2025, eight months after entry of the Order, A.F. evicted X.X. from her residence, telling—and essentially forcing—X.X. to live with her grandparents in Somerdale. Since that time, A.F. has not attempted to avail herself of any available remedy to have X.X. rejoin her in Clementon. Second, and perhaps more important, after a one week period in March 2026, DCP&P returned X.X. to her grandparents’ house in Somerdale. While no order or specific records were produced, this fact was uncontroverted at the emergent hearing.

Granted that N.J.A.C. 6A:22-3.1 discusses “Affidavit Students” in detail—and there is some question when considering A.F.’s recalcitrance in executing one permitting X.X. to attend Sterling—N.J.A.C. 6A:22-3.1(a)(5) references actions by DCP&P as “guardian” placing the student in a particular school district.¹⁰ Further, when taking into account N.J.S.A. 18A:38-2 and DCP&P’s actions, this code provision appears to promote the use

¹⁰ See N.J.A.C. 6A:22-1.2 (Definitions) (defining “Affidavit Student”).

of petitioners' Somerdale home as the domicile for school purposes. This is experienced with even greater effect in light of the directed liberal application set forth in N.J.A.C. 6A:22-1.1(c). Moreover, though N.J.A.C. 6A:22-3.2(h), on its surface, seems to apply, the emergent family crisis referred to therein, as of this juncture and on these facts, is presently abated. As such, the prescriptions of N.J.A.C. 6A:22-3.2(a)(2) and N.J.A.C. 6A:22-3.3(a)(3) are of increased import.

Accordingly, taking the above into consideration, I **CONCLUDE** that, based upon the record before me, petitioners have established that there is a settled legal right, and that there is a likelihood of success on the merits, both of which are established by clear and convincing evidence.

Factor III. Irreparable Harm.

There is a pedagogical concept which should be at the forefront of any decision, and one which should pervade each consideration: Where possible, do no harm. The facts of the instant matter are, for lack of better terms, difficult. It is not particularly hard to envision the harm which may occur on many levels in these circumstances. If the requested relief—here, enrollment at Sterling—were not granted, what is the harm to be visited. Granted, one may reflect that X.X. was formerly a Highland High School student—and in the absence of enrollment at Sterling—a nearby high school is available, and in particular, one which bears recent footsteps.

Here, the greater possibility—that is, the expectation of irreparable harm—is where X.X. is temporarily placed in Highland High School when the much greater likelihood of result is enrollment at Sterling. It is difficult enough for the average high school student to make a mid-year transition from one high school to the other. But taking into consideration the difficult facts in this particular matter, one in which X.X. suffers from depression, has previously self-harmed, and has an unfortunate family history, including criminal acts and involvement with DCP&P, and it irreparable harm goes from possible to highly probable.

Accordingly, provided the facts of this particular matter, including the family history and conduct, I **CONCLUDE** that, by clear and convincing evidence, based upon the record before me, petitioners have established that there is a high probability of irreparable harm should the requested emergent relief not be granted.

Factor IV. Balancing of the Equities.

Reflecting on the above facts, balancing the respective interests of the parties, including Sterling's, it is difficult to counterbalance as against the weight of a young woman's prospective life. Noted above, and again, the facts here are difficult. But history has yet to be written. It is the possibility here, reflected in new surroundings, peers, and educational experience, which, upon balance, weighs heavily, intertwining both hope and the appropriate result. There is little harm to Sterling in admitting X.X.; and she has all to gain.

Accordingly, I **CONCLUDE** that in balancing the particular equities presented, by clear and convincing evidence, based upon the record before me, petitioners have established that the equities weigh heavily in granting the sought-after emergent relief.

CONCLUSION

Having taken into consideration the four factors set forth in N.J.A.C. 6A:3-1.6(b), explained at length above, I **CONCLUDE** that petitioners have met their required burden by clear and convincing evidence. Accordingly, petitioners' emergent motion is GRANTED, and X.X. should be enrolled and matriculate her junior year at Sterling High School.

This order on application for emergency relief may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who/which 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 decision on the issue of emergent relief in accordance with N.J.S.A. 52:14B-10.

August 28, 2026

DATE

A handwritten signature in black ink, appearing to read "Robert D. Herman", written over a horizontal line.

ROBERT D. HERMAN, ALJ

Date Received at Agency:

August 28, 2026

Date Mailed to Parties:

August 28, 2026

RDH/gd

APPENDIX

WITNESSES

For petitioners

M.C.
X.X.

For respondent

None.

Third Party in Interest

A.F.

LIST OF EXHIBITS

For petitioners

- P-1 Petitioner's petition and motion for emergent relief (July 27, 2026) (fifty-one pages)
- P-2 Petitioner's email of August 21, 2026 (one page) (permitted for argument purposes only)

For respondent

- R-1 Letter brief (Aug. 14, 2026) (six pages)

For third party in interest (A.F.)

- TP-1 Emails from August 15, 2026 (with attachments) (seventy-five pages)
- TP-2 Emails from August 19, 2026 (permitted for argument purposes only) (five pages)

Documents

- Doc 1 Emails between respondent's counsel and A.F. (August 12, 2026) (two pages)
- Doc 2 Emails between respondent's counsel and A.F. (August 14, 2026) (two pages)
- Doc 3 Emails between respondent's counsel and A.F. (August 18, 2026) (two pages)
- Doc 4 Emails between A.F. and OAL (August 18, 2026) (one page)
- Doc 5 Emails between A.F. and OAL; email respondent's counsel (August 18-19, 2026) (three pages)