

New Jersey Commissioner of Education
Order on Emergent Relief

Michelle Evaul, on behalf of Stuart Country Day
School of the Sacred Heart, Mercer County,

Petitioner,

v.

New Jersey Department of Education, Office of
Interdistrict Choice and Nonpublic Schools,

Respondents.

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: September 16, 2026
Date of Mailing: September 17, 2026



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING

EMERGENT RELIEF

OAL DKT. NO. EDU 12325-26

AGENCY DKT. NO. 317-07-26

**MICHELELLE EVAUL, ON BEHALF OF STUART
COUNTRY DAY SCHOOL OF THE SACRED HEART,**

Petitioner,

v.

**NEW JERSEY DEPARTMENT OF EDUCATION,
OFFICE OF INTERDISTRICT CHOICE AND NONPUBLIC SCHOOLS,**

Respondent.

Sandy Schlesinger, Esq., for petitioner (Venable LLP, attorneys)

David L. Kalisky, Deputy Attorney General, for respondent (Jennifer Davenport,
Attorney General of New Jersey, attorney)

BEFORE **DIANE HOAGLAND**, ALJ:

STATEMENT OF THE CASE

On July 23, 2026, petitioner, Michael Evaul, on behalf of Stuart Country Day School of the Sacred Heart (Stuart), filed a motion with respondent, New Jersey Department of

Education, Office of Interdistrict Choice and Nonpublic Schools, for emergent relief seeking monetary damages for nonpublic school funding. Can petitioner prevail? No. To prevail on a motion for emergent relief, a petitioner must demonstrate, among other things, that the remedy cannot be redressed adequately by monetary damages. Crowe v. DeGioia, 90 N.J. 126, 132-33 (1982).

PROCEDURAL HISTORY

On July 23, 2026, petitioner filed a petition of appeal, together with a motion for emergent relief, with respondent seeking an order directing respondent to accept the late submission of petitioner's enrollment report for the 2025-2026 school year and allocate funds for the 2026-2027 school year.

On July 28, 2026, respondent transmitted the case to the Office of Administrative Law as a contested case under N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

On August 10, 2026, petitioner filed an amended petition of appeal.

On August 12, 2026, respondent filed its opposition to the motion, together with a cross motion to dismiss the petition of appeal, and on August 15, 2026, petitioner filed a reply in support of its motion for emergent relief and in opposition to the cross motion to dismiss the petition of appeal.

On August 17, 2026, I held the oral argument for the motion for emergent relief.

FINDINGS OF FACT

Based on the papers submitted in support of and in opposition to the motion for emergent relief, I **FIND** the following as **FACT** for purposes of this motion only:

Various state statutes require that school districts provide certain goods and services to eligible students enrolled in nonpublic schools located in the district's boundaries, including textbooks, security equipment and services, nursing services, and

technology equipment and services. N.J.S.A 18A:58-37.1 et seq. provides for school districts to purchase and loan textbooks to students enrolled in nonpublic schools. N.J.S.A. 18A:58-37.8 et seq. requires school districts to provide security equipment and services to nonpublic schools. N.J.S.A. 18A:40-23 et seq. requires school districts to provide nursing services to nonpublic schools. Finally, the annual appropriations act for the 2026-2027 school year, as well as previous school years, require that school districts provide technology equipment and services to nonpublic schools. Each of these programs are intended to be fully funded by State appropriations. The school districts are not expected to support these programs through their local tax levy or any other revenue source. To implement these programs, the Office of Interdistrict Choice and Nonpublic Schools requires nonpublic schools to complete the Nonpublic School Enrollment Report (Enrollment Report).

In prior academic years, petitioner received funds from the New Jersey State funded nonpublic school programs to support its security, nursing services, technology, textbook aid, and learning support services. During the 2025-2026 academic year, petitioner received \$54,120 in security aid; \$9,962 in technology aid; \$13,961 in textbook aid; and \$38,438 in nursing service aid.

In November 2022, Michelle Evaul began working for Stuart as its chief of staff and served in that role until June 2024. During that time, Rose Neubert served as its chief financial and operating officer. Also, during that time, Neubert, together with Julia Wall, the head of school for Stuart, were designated contacts for respondent. As the chief financial and operating officer, Neubert was responsible for completing the Nonpublic School Enrollment Report, and Evaul was responsible for submitting the report to respondent. When Neubert retired at the end of June 2024, Evaul became the chief financial and operating officer for Stuart.

On December 3, 2024, respondent notified the nonpublic school administrators that the enrollment report was open for the 2024-2025 school year.

On January 9, 2025, Evaul emailed respondent to request the login information for her to complete the enrollment report but did not identify herself as the new chief financial and operating officer or ask respondent to add her as a designated contact.

On December 1, 2025, respondent notified Neubert and Wall that the enrollment report was open for the 2025-2026 school year, and that the report was due on January 9, 2026. Respondent also notified them that schools which did not submit their reports by that date would not be eligible for services for the upcoming school year. Since Evaul did not receive the notice, petitioner did not submit its enrollment report for the 2025-2026 school year by the January 9, 2026 deadline.

On June 29, 2026, respondent notified Neubert and Wall that petitioner could still receive state funding if it completed its enrollment report for the 2025-2026 school year by June 30, 2026. Wall responded to add Evaul as petitioner's designated contact, and respondent, in turn, provided Wall and Evaul with petitioner's login information for the enrollment report.

On July 2, 2026, Evaul attempted to submit the enrollment report for the 2025-2026 school year, but the electronic submission system would not accept it because the system was already keyed for the 2026-2027 school year.

On July 7, 2026, respondent released its notifications for the allocation of funds for the nonpublic school programs.

On July 15, 2026, Evaul asked respondent about the status of petitioner's state funding for the 2026-2027 school year and forwarded petitioner's New Jersey State Funded Programs Nonpublic School Affirmation of Consultation Form, which she had submitted on April 1, 2026 to Princeton Public Schools, and respondent advised Evaul that the consultation form was not the form required to receive state funding. Petitioner is located within the boundaries of the Princeton Public Schools district.

CONCLUSIONS OF LAW

To prevail on a motion for emergent relief, petitioner must meet the standards in Crowe v. DeGioia, 90 N.J. 126 (1982), which are codified at N.J.A.C. 6A:3-1.6(b):

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.

Irreparable Harm

First, petitioner must demonstrate irreparable harm. Harm is irreparable when no adequate remedy exists in law or in equity, including when the remedy cannot be redressed adequately by monetary damages. Crowe, 90 N.J. at 132–33. The petitioner must demonstrate more than a mere risk of irreparable harm; it must show an immediate irreparable injury. Continental Group, Inc. v. Amoco Chems. Corp., 614 F.2d 351, 359 (3d Cir. 1980). Moreover, the petitioner cannot claim "imminent" irreparable injury when the petitioner's delay created the emergency. McKenzie v. Corzine, 396 N.J. Super. 405, 414 (App. Div. 2007).

In this case, petitioner argues that it will suffer irreparable harm if respondent does not provide it with the state nonpublic school funding that it has received for many years before the 2026-2027 academic year. Petitioner, however, is seeking monetary damages. In addition, petitioner caused its emergency. Therefore, I **CONCLUDE** that petitioner has not demonstrated that it will suffer irreparable harm if respondent does not accept its enrollment report for the 2025-2026 school year and allocate its nonpublic school funding for the 2026-2027 school year.

Legal Right is Settled

Second, petitioner must demonstrate that the legal right underlying its claim is settled. Crowe, 90 N.J. at 133. Petitioner, however, makes no legal argument that it is. Therefore, I **CONCLUDE** that petitioner has not demonstrated that respondent must accept its enrollment report for the 20205-26 school year and allocate its nonpublic school funding for the 2026-2027 school year.

Likelihood of Success on the Merits

Third, petitioner must demonstrate a likelihood of success on the merits. Crowe, 90 N.J. at 133. Since petitioner cannot demonstrate that it even has a legal right to the relief it seeks, petitioner does not have a likelihood of success on the merits. Therefore, I **CONCLUDE** that petitioner has not demonstrated a likelihood of success on the merits.

Equities and Interests of the Parties

Finally, petitioner must demonstrate that it will suffer greater hardship than petitioner if the relief is not granted. Crowe, 90 N.J. at 134. Petitioner argues that it needs the funding to function, but respondent argues that its interest in enforcing deadlines is more significant. In addition, respondent argues that it cannot make additional allocations once the deadline has passed unless the Legislature appropriates additional funds for this purpose or the Department of Education recalculates the statewide allocations and reduces all other allocations to accommodate this one. Given this balancing of the hardships, I **CONCLUDE** that respondent will suffer greater harm than petitioner if the relief is granted.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that petitioner's motion for emergent relief is **DENIED**.

This order on application for emergent 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 case. The final decision must be issued without undue delay, but no later than forty-five days after 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 becomes a final decision on the issue of emergent relief in accordance with N.J.S.A. 52:14B-10.

August 18, 2026

DATE



DIANE HOAGLAND, ALJ

Date Received at Agency:

Date Mailed to Parties:

DH/am