State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER GRANTING
EMERGENT RELIEF
OAL DKT. NO. EDS 02252-23
AGENCY REF. NO. 2023-35587

PRINCETON PUBLIC SCHOOLS
BOARD OF EDUCATION,
Petitioner,
v
J.G. ON BEHALF OF MINOR CHILD J.G.,
Respondent.

Brett E.J. Gorman, Esq., for petitioner (Parker McCay P.A., attorneys)

J.G. on behalf of minor child J.G., respondent, pro se, no appearance

BEFORE **JEFFREY N. RABIN**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, Princeton Public Schools Board of Education (petitioner, Princeton, or District) seeks emergent relief in the form of an immediate order maintaining respondent student, J.G., on home instruction for forty-five days pending an appropriate out-of-district placement.

Petitioner's simultaneous due process filing seeks an appropriate educational program and appropriate out-of-district placement, and was filed as a cross-petition to a

filing by respondent. Respondent's petition, docketed as EDS 01350-23, was an expedited due process request by parent J.G., in which she disputed an out-of-district placement and the discipline imposed on her son. J.G. failed to appear at the scheduled hearing and Judge Burke issued a Final Decision Dismissal.

The within motion for emergent relief was filed by petitioner on February 23, 2023, with the New Jersey Department of Education (DOE), Office of Special Education (OSE). The motion for emergent relief was transmitted to the OAL on March 14, 2023. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. Due to the ongoing Covid-19 pandemic protocols, an emergent hearing in this matter took place via Zoom on March 20, 2023, and the record closed.

FINDINGS OF FACT

Based on the Petition for Emergent Relief and letter brief, and the video evidence offered by the petitioner, and solely for the purpose of deciding this emergent appeal, I **FIND** the following to be the undisputed facts:

1. J.G. is a fourteen-year-old freshman at Princeton High School at 151 Moore Street, Princeton, New Jersey 08540. See Certification of Cecilia Birges ("Birges Cert.") at ¶ 3.
2. J.G. is a student receiving special education and related services pursuant to a classification of "emotional regulation impairment." (Birges Cert. at ¶ 4.)
3. On December 14, 2022, J.G. and two friends assaulted another student (the "Victim") in the gymnasium of Princeton High School. The assault involved chasing, threatening and punching the Victim, and forcing the Victim to the ground and kicking and stomping on him. (Exhibit B and Video.)
4. The assault was violent and J.G. was charged with harassment and simple assault. The assault was found to be a violation of the school's anti-bullying policy. (Certification of Frank Chmiel ("Chmiel Cert.") at ¶ 8-11.)
5. As a result of the assault, the Victim, a student with high-functioning Autism Spectrum Disorders (ASD) and Attention Deficit/Hyperactivity Disorder (ADHD), suffered extreme physical pain and protracted loss of his mental faculty. The assault caused the Victim to develop a fear that he was unsafe in

school. He began to stutter, check in daily with his Assistant Principal, and ask obsessively when J.G. would be back at school. (Birge Cert. at ¶ 12, 13, 16, 20, and 21.)

6. Recordings of the assault had been circulated to the Victim's classmates within minutes of the assault and served to continue to cause the Victim humiliation over the assault. (Birge Cert. at ¶ 18.)
7. The Victim's mother wrote to the school describing the assault as traumatic and heartbreaking and informed the school that because the Victim was so afraid she was seeking counseling for him. (Birge Cert. at ¶ 17.)
8. J.G. was suspended for five days with a reentry meeting scheduled for January 3, 2023, the first day back from winter break. (Exhibit I.) J.G. and his mother did not appear for this meeting. (Exhibit M.)
9. On January 4, 2023, another reentry meeting was held at which J.G.'s parent declined remote home instruction, a temporary placement at Rubino School, and to sign the releases necessary for the District to explore other out-of-district options for J.G. (Exhibit M.)
10. The District placed J.G. on home instruction pending placement in an appropriate out-of-district placement under special circumstances as result of the serious bodily harm he caused the Victim.
11. In the time that J.G. has been suspended he had repeatedly entered or attempted to enter the school despite clear instructions to both J.G. and his parent that this was not permitted. (Birge Cert. at ¶ 14 and 15.) J.G. also ran away multiple times from his full-time one-to-one aide. (Birge Cert. at ¶ 22.)
12. J.G.'s parent refused to work with the District towards finding an appropriate placement for J.G. and has minimized the assault and its impact on the Victim and had not held J.G. accountable for his actions. (Birge Cert. at ¶ 14.)

LEGAL ANALYSIS

The issue is whether petitioner had proven by a preponderance of the evidence that it had met the standard for emergent relief and that they were entitled to relief.

N.J.S.A. 18A:6-9 authorizes the Commissioner of Education to consider controversies between a parent and a school board. The OAL is the appropriate venue for hearing an appeal of a school board's findings and OSE properly forwarded this matter to the OAL for this emergent appeal to be heard.

N.J.A.C. 6A:14-2.7(r) allows a party to apply in writing for a temporary order of emergent relief as part of a request for a due process hearing or an expedited hearing for disciplinary action. The request needed to be supported by an affidavit or notarized statement specifying the basis for the request for emergency relief. N.J.A.C. 6A:14-2.7(r)(1) lists the cases emergent relief is available for, which includes issues involving (i) a break in the delivery of services, (ii) disciplinary action, including manifestation determinations and determinations of interim alternate educational settings, (iii) placement pending the outcome of due process proceedings, and (iv) issues involving graduation or participation in graduation ceremonies.

Pursuant to N.J.A.C. 6A:14-2.7(n),

> To remove a student with a disability when school personnel maintain that it is dangerous for the student to be in the current placement and the parent and district cannot agree to an appropriate placement, the district board of education shall request an expedited hearing. The administrative law judge may order a change in the placement of the student with a disability to an appropriate interim alternative placement for not more than 45 calendar days according to 20 U.S.C. § 1415(k) and its implementing regulations at 34 C.F.R §§ 300.1 et seq.

I **CONCLUDE** that the within Petition for Emergent Relief met three of the threshold issues required to be eligible for emergent relief, those being: (i) a possible break in the

delivery of services, (ii) disciplinary action and a determination of an interim alternate educational setting, and (iii) placement pending the outcome of due process proceedings.

Next, pursuant to N.J.A.C. 6A: 3-1.6 and the case of Crowe v. DeGioia, 90 N.J. 126 (1982), a petitioner must show by a preponderance of the evidence that all four prongs/prerequisites set forth therein had been met in petitioner's favor in order to be granted emergent relief.

A petitioner bears the burden of proving the four prongs for emergent relief. B.W. ex rel. D.W. v. Lenape Reg'l High Sch. Dist., OAL Dkt. No. EDS 06933-05, Agency Ref. No. 2006-10522E, at 8 (N.J. Adm); see also J.G. ex rel. Q.B. v. Bd. of Educ. of Lakewood, OAL Dkt. No. EDU 10073-03, Agency Ref. No. 466-12/03, at 6 (N.J. Adm); R.D. ex rel. C.D. v. Willingboro Bd. of Educ., 95 N.J.A.R.2d 190, at 2.

Per N.J.A.C. 6A: 3-1.6 and Crowe, emergent relief may be granted if the judge determines from the proofs that the following four prongs have been met:

i. The petitioner will suffer irreparable harm if the requested relief is not granted;

ii. The legal right underlying the petitioner's claim is settled;

iii. The petitioner has a likelihood of prevailing on the merits of the underlying claim; and

iv. 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.

1. The petitioner will suffer irreparable harm if the requested relief is not granted.

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 the possibility of a remote future injury, or a future invasion of rights, be those rights protected by statute or by common law.'" T.G. on behalf of J.G. v. Lindenwold Boro Bd. of Educ., OAL Dkt. No. EDS 05159-22, 2022 N.J. AGEN LEXIS 648,

*10-11 (June 29, 2022) (citing Continental Group v. Amoco Chemicals Corp., 614 F.2d 351, 359 (D.N.J. 1980)). Irreparable harm is found where (1) a district cannot adequately meet a student's needs leading to educational regression; (2) peers and staff have lost instructional time as a result of a student's behavior; and (3) peers and staff have been victims of verbal and physical aggression. A.B. and N.B. on behalf of T.B. v. Tenafly Bd. Of Educ. and Tenafly Bd. of Educ. v. A.B. and N.B. on behalf of T.B., OAL Dkt. Nos. EDS 12563-17 and EDS 12812-17, 2017 N.J. AGEN LEXIS 700, *6 (September 8, 2017) (finding that past harmful behaviors were sufficient to show that future harmful behaviors were reasonably inferred meeting the irreparable harm requirement); Elizabeth Bd. of Educ. v. T.D. on behalf of E.D., Agency Dkt. No. 2015 22392, 2015 N.J. AGEN LEXIS 160, *4 (March 27, 2015) (finding irreparable harm where "[the student's] extreme behavior prevents both [the student] and her fellow students from obtaining the benefits of a structured education."); but see Olu-Cole v. E. L. Haynes Pub. Charter Sch., 930 F.3d 519, 529 (D.C. Cir. 2019) (finding that the decision to readmit a student is fatal to their previous argument that readmittance would cause irreparable harm).

Petitioner set forth that in Olu-Cole, the court found that "in concluding that [the student's] return 'would raise an unacceptably significant potential of injury to other interested parties, the district court did not find that the harm was 'certain,' 'great' and 'actual.'" Id. at 529. The court noted "that the stay-put provision reflects Congress's considered judgment that children with disabilities are substantially harmed by and must be protected against school policies of unilateral disruption and exclusion." Ibid.

In Olu-Cole, the student had assaulted another student, knocking him to the ground and punching him in the head repeatedly. Id. at 525. Both in Olu-Cole and in the within matter, the assault caused severe harm to the victim physically. But here, unlike in Olu-Cole, the District had demonstrated the ongoing mental harm to the Victim and his fear of J.G., as demonstrated by his panicked visits to the Assistant Principals. See Birge Cert. at ¶ 21 ("The fear and panic that he has demonstrated whenever he thinks J.G. is even near the school would inevitably escalate if he knew J.G. was in school and he was not safe from his attacker."); Johnson Cert. at ¶ 8 ("During J.G.'s suspension, the Victim saw J.G. outside of the school building and came to my office terrified. I had to walk with him between classes until we were able to locate J.G. and I could assure the Victim that

he was safe.") Assistant Principal Birge and School Psychologist Dr. De Oliveira-Moschetti have both sworn that, despite being assigned a one-to-one aide, J.G. consistently sprints away from his aide and hides in the school making it impossible for the District to enforce a plan to keep J.G. away from the Victim. (Birge Cert. at ¶ 22 and Oliveira Cert at ¶ 13.)

J.G. continued to demonstrate his unwillingness to follow school rules by returning to school without permission at every opportunity. Assistant Principal Birge expressed her certainty that the Victim would not be able to feel safe enough to obtain a meaningful education at Princeton High School if J.G. were to return. (See Birge Cert. at ¶ 22)("I would struggle to be able to look the Victim and his mother in the eye and tell them that he will not have further interactions with J.G. at school if J.G. were to return to the building.") Petitioner persuasively argued that the combination of the lasting fear experienced by the Victim and J.G.'s unwillingness to follow school rules demonstrated that returning J.G. to the high school was certain to cause further harm to the Victim and irreparably leave the Victim feeling unsafe at school and unprotected by the District.

The Victim of J.G.'s assault was a student with special needs who was targeted by J.G. for being "a rat". Petitioner stated that people with ASD often had problems with social communication and interaction, and restricted or repetitive behaviors or interests, which could make it difficult for them to be able to navigate the complicated social norms of high school where there are "unwritten" social rules among students about not disclosing information to adults and authority figures. The Victim of this assault, by virtue of his disability, did not have the tools to stay safe from a student who was willing to attack him for misunderstanding these norms. Further, petitioner cited to the Centers for Disease Control and Prevention (CDC), stating that some common qualities of autism included anxiety, stress or excessive worry. Therefore, the Victim's disability made it harder for him to move on from the terror of the assault. Respondent claimed that they were working with the Victim to restore his feelings of safety in school, and that allowing J.G. to return to an in-district placement would ensure that the District would not be able to accomplish this goal. To allow J.G. to return to an in-district placement would disrupt the Victim's education and, likely, eventually serve to exclude him from the school.

Additionally, students who were present during the attack video-taped the assault and posted it online. Students were watching the video of J.G.'s assault on the Victim on their phones in the moments following the assault. The Victim and his mother have also seen the video. (Birge Cert. at ¶18 and ¶19.) The recording of that humiliating moment for the Victim remained accessible to his classmates, causing a continuous threat of being the Victim being re-victimized by a single attack.

As stated by the court in C.B. o/b/o C.B. v. Jackson Twp. Bd. of Educ., OAL Dkt. No. EDS 04153-09, 2009 N.J. AGEN LEXIS 592 (Sept. 9, 2009), "Generally, irreparable harm may be shown when there is a substantial risk of physical injury to the child or others, or when there is a significant interruption or termination of educational services." Based on J.G.'s attack on the Victim and the video of that attack, I **CONCLUDE** that in the matter before this court, there was physical and emotional injury to the Victim and that there was a substantial risk of further physical injury to the Victim. I **CONCLUDE** that there was a risk of a significant interruption or termination of educational services to Victim, and that if J.G. were to return to his in-district school, petitioner would not be able to adequately meet the Victim's needs, which could lead to educational regression.

I **CONCLUDE** that petitioner showed that the first prong of the Crowe test for emergent relief had been met in favor of the petitioners.

2. The legal right underlying the petitioner's claim is settled.

Petitioner argued that it is responsible for maintaining a safe school environment for all the students, and that when it is determined that it would be dangerous for a student to remain in the current placement, the District had an obligation to place that student in a different educational setting so long as the decision is not arbitrary or capricious. Elizabeth Board of Education v. E.D., N.J. Adm. (Mar. 27, 2015). In that case, the Administrative Law Judge held that:

> The petitioner [school district] is responsible for maintaining a safe school environment for all the students. When it is determined that it is dangerous for a student to be in the current placement, the

> District has an obligation to place that student in a different educational setting so long as the decision is not arbitrary or capricious. It is argued that E.D.'s behavior is impeding the School District's ability to provide a meaningful education to all students. N.J.A.C. 6A:14-2.7(p) permits a School District to request an Administrative Law Judge to order a student to be placed in an interim alternative educational setting. The School District is permitted to request emergent relief when there are issues involving a break in the delivery of service and/or issues involving disciplinary action and the determination of interim alternate educational settings, pursuant to N.J.A.C. 6A:14-2.7(r)(1).

A school district was entitled to seek a change of placement "when maintaining the current placement of a student is substantially likely to result in injury to the child or others." 20 U.S.C. 1415(k)(3)(A). While a parent may invoke the IDEA's stay-put provision when the school system proposes "a fundamental change in, or elimination of, a basic element of the [then-current education placement]," per Lunceford v. Dist. of Columbia Bd. of Educ., 745 F.2d 1577, 1582 (D.C. Cir. 1984), "stay put does not completely displace the 'equitable powers of district courts such that they cannot, in appropriate cases, temporarily enjoin a dangerous disabled child from attending school' and courts may tailor the order to provide 'appropriate' relief." Olu-Cole at 527. Instead, stay-put "effectively creates a presumption in favor of the child's current educational placement which school officials can overcome only by showing that maintaining the child in his or her current placement is substantially likely to result in injury either to himself or herself, or to others." Ibid. "It is clear that the law is well settled and mandates the emergent relief… [where t]he petitioner is responsible for maintaining a safe school environment for all the students [and] it is determined that it is dangerous for a student to be in the current placement". Elizabeth Bd. Of Educ., 2015 N.J. AGEN LEXIS at *5-6. "[T]he District has an obligation to place that student in a different educational setting so long as the decision is not arbitrary or capricious." Id. at 6. "Even a child whose behaviors flow directly and demonstrably from [his] disability is subject to removal where that child poses a substantial risk of injury to herself or others." Light v. Parkway C-2 Sch. Dist., 41 F.3d 1223, 1228 (8th Circ. 1994). "[I]n the case of dangerous disabled children the

purpose of removal is not punishment, but 'maintaining a safe learning environment for all . . . students.'" Ibid. (citing Honing v. Doe, 484 U.S. 305, 328 (1988)) "Moreover, the removal of a dangerous disabled child from her current placement alters, but does not terminate, her education under the IDEA." Ibid. "Placement in a 'least restrictive environment,' requires a consideration of 'the potentially harmful effects which a placement may have on the student with disabilities or the other students in the class.'" T.G., 2022 N.J. AGEN LEXIS 648 at *15 (citing N.J.A.C. 6A:14-4.2(8)(iii)).

Further, New Jersey Special Education Regulations authorize districts to seek removal of a disabled student for a period of forty-five days through OAL, with a showing from the District and its school staff that it would be dangerous for the particular student to remain in his current program. In that scenario, the District board of education must request an expedited hearing, and then the administrative law judge may order a change in the placement of the student with a disability to an appropriate interim alternative placement for not more than forty-five calendar days, pursuant to 20 U.S.C. §1415(k) and its associated regulations set out at 34 CFR §§300.1 et seq. and N.J.A.C. 6A:14-2.7(n). Petitioner proffered a specific example of this, by showing that OAL ordered the removal of a student under this regulation because that student was "a risk to himself and others," in C.J. o/b/o J.J. v Clearview Regional Bd. of Educ. and Durand Academy, OAL DKT. NO. EDS 02079-16 (April 1, 2016).

Therefore, based on IDEA, its implementing regulations, and their interpretations by the courts, it is well-settled that the petitioner District can seek interim alternative placement for not more than forty-five calendar days when a student's actions result in risk to another student that he cannot be safely educated in their current placement.

Accordingly, I **CONCLUDE** that petitioner showed that the second prong of the Crowe test for emergent relief had been met in favor of the petitioner.

3. The petitioner has a likelihood of prevailing on the merits of the underlying claim.

Having proven that the law is settled in their favor, petitioner must then show that there was a likelihood of success on the merits of their case at the underlying due process hearing.

Petitioner argued that it is settled in New Jersey that a safe and civil environment in school was necessary for students to learn, and disruptive or violent behaviors were conduct that disrupted a school's ability to educate its students in a safe environment. N.J.S.A. 18A:37-13. There were standards for determining whether a school's decision to remove a child with disabilities from the regular classroom and to place a child in segregated environment violated IDEA's presumption in favor of mainstreaming. In determining whether a student with disabilities was properly in the least restrictive environment, courts should consider (1) whether the school district has made reasonable efforts to accommodate the child in [less restrictive placement] with supplementary aids and services; (2) a comparison of the educational benefits available in a [less restrictive placement] and the benefits provided in [the proposed placement]; and (3) the possible negative effects of [a less restrictive placement] on the other students in the class." Oberti v. Bd. of Educ., 995 F.2d 1204, 1220 (3d. Cir. 1993). "The least restrictive environment is the one that, to the greatest extent possible, satisfactorily educates disabled children together with children who are not disabled, in the same school the disabled child would attend if the child were not disabled." Carlisle Area Sch. v. Scott P. by & Through Bess P., 62 F.3d 520, 535 (3d. Cir. 1995).

As to the first standard, petitioner has made reasonable efforts to accommodate J.G. in-district with supplementary aids and services. An IEP with a Behavior Intervention Plan ("BIP") was created for J.G. (Exhibit A and Oliveira Cert at ¶ 5.) A Functional Behavioral Analysis was performed in June of 2021 showing that J.G. needed to work on non-compliance and off-task behaviors. (Exhibit F; Oliveira Cert. at ¶ 6.) J.G. had a full-time one-to-one aide. (Exhibit A; Oliveira Cert. at ¶ 10.) J.G. participated in the "bridges program" for high school students with IEPs who had significant social-emotional needs that impeded their educational progress and overall wellbeing. (Oliveira Cert. at ¶ 7.) J.G.'s schoolwork was modified to set J.G. up for success with a gradual increase in expectations when behavior improved; he was consistently offered positive reinforcement when he was on-task, participating, and completing work in the form of snacks and preferred activities during bridge time; and the response to target behaviors would escalate from positive redirection to private conversations about choices, to a break with bridge team support. (Oliveira Cert. at ¶ 9(d).) J.G. also received bi-weekly counseling services with the option of seeking out counseling more frequently as needed. (Exhibit A; Oliveira Cert. at ¶ 15.)

Yet, with these supports in place, J.G. often ran away from his one-to-one aide and hid in the school. The District could not ensure that J.G. had constant adult supervision. Petitioner used its most intensive intervention, a full-time one-to-one aide, without success.

As to the second standard, petitioner argued that its out-of-district placement of J.G. would better meet his behavioral needs and provide the foundation he needed to avoid future violence and more severe consequences. "Whether a child is the victim, aggressor, or merely a bystander, research shows that those in a close vicinity to bullying are adversely marked." T.K. v. New York City Dep't of Educ., 779 F. Supp. 2d 289, 298 (E.D.N.Y. 011). Bullying and inappropriate peer harassment in its many forms provides an unacceptable toxic learning environment." T.K., at 293.

In this case, J.G.'s behavior suddenly escalated from being off task and noncompliant to significant physical violence, and therefore the issue facing J.G.'s Child Study Team would escalate from an educational programming issue to a safety issue. Petitioner was correct to state that it would not be safe to ask education professionals to have to act as a bodyguard for a student. J.G. had a one-to-one aide, but often left the room suddenly without asking permission. He refused to allow paraprofessionals to sit next to him. J.G. failed to accept responsibility for his actions, and most likely would quickly return to problematic behaviors. J.G. was not a safe student to have at the high school, and petitioner was no longer able to provide the level of support he needed. This was exacerbated by respondent's refusal to participate in collaborative problem-solving with the District.

As to the third standard, the Victim had been struggling to focus on his education after the assault and immediately reverted to a place of panic if he believed he would be encountering J.G. again. (Birge Cert. at ¶ 16 and Johnson Cert. at ¶ 8.) Assistant Principals Birge and Johnson, along with the Victim's teachers, have worked closely with the Victim to assure him that he is safe in school. It would be extremely difficult to maintain the Victim's trust and feelings of safety if J.G. returned to his current school placement, placing all the burden on the school to attempt to ensure that J.G. and the Victim never encountered each other.

I **CONCLUDE** that petitioner showed that the third prong of the Crowe test for emergent relief had been met in favor of the petitioner.

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.

Petitioner was persuasive in arguing that where a student demonstrated violent behavior and was not obtaining any real degree of educational benefit in the current environment, and in fact was taking away from other students' educational benefits, the balance of equities favored the school district. Elizabeth Bd. of Educ. v. T.D. on behalf of E.D., 2015 N.J. AGEN LEXIS 160 at *9-10. "[A] school district has a legitimate interest in promoting the health and safety of its students". Doe v. Del. Valley Sch. Dist., 572 F. Supp 3d 38, 71 (M.D. Pa. 2021). Princeton Public Schools Board of Education had a legal duty to provide the Victim with a safe environment in which to learn. In Shore Regional High School Bd of Educ. v. P.S., 381 F.3d 194, 199-200 (3d Cir. 2004), the court held that a student was denied FAPE based on a documented record of having been bullied and the bullying's effect on the student's education.

Both J.G. and the Victim deserved a FAPE. However, as long as J.G. and the Victim are in the same building, the Victim will not receive a FAPE. When balancing the equities, it would be clearly fairer to remove J.G. from the situation than to remove the Victim. J.G., as a ninth grader, would have more than three years of high school to grow in a new environment and move past the assault at his old school. "While there is some 'harm' in the context of the IDEA in changing a student to a more restrictive environment, such harm is minimized when the change of placement is appropriate to the circumstances." J.M. by and through L.M., 957 F.Supp. 1252, 1258 (M.D. Fla. 1997). Petitioner was clear that they had made efforts to work with J.G.'s parent to figure out a solution, and that in the within case "the purpose of removal is not punishment, but 'maintaining a safe learning environment for all . . . students.' Moreover, the removal of a dangerous disabled child from his current placement alters, but does not terminate, his education under the IDEA." Light, 41 F.3d at 1228 (citing Honing, 484 U.S. at 328).

I **CONCLUDE** that petitioner showed that the fourth prong of the Crowe test for emergent relief had been met in favor of the petitioner.

Therefore, I **CONCLUDE** that petitioner showed by a preponderance of the evidence that it met all four prongs of the Crowe test for emergent relief. I **CONCLUDE** that petitioner proved that it was entitled to emergent relief in this matter.

ORDER

Accordingly, **I ORDER** that the petitioner's application for emergent relief be and hereby is **GRANTED**, and that J.G. remain in homebound instruction pursuant to N.J.A.C. 6A:14-2.7(n) for forty-five days pending an appropriate out-of-district placement.

This order on application for emergency relief shall remain in effect until issuance of the decision in the matter. The parties will be notified of the scheduled hearing dates. If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education.

March 21, 2023
DATE

JEFFREY N. RABIN, ALJ

Date Received at Agency: March 21, 2023

Date Mailed to Parties: March 21, 2023

JNR/dw

APPENDIX

WITNESSES

For petitioner:

None

For respondent:

None

BRIEFS/EXHIBITS

For petitioner:

Petition, Brief and Certification, dated February 6, 2023
Video, contained in the Zoom recording (and Exhibit B to John Certification)

For respondent:

None