



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

EMERGENT RELIEF

OAL DOCKET NO.: EDS 04658-2025

AGENCY REF. NO.: 2025-38781

M.B.,

Petitioner,

v.

**NEWARK BOARD OF EDUCATION,
ESSEX COUNTY DEPARTMENT OF CORRECTIONS,
NEW JERSEY DEPARTMENT OF CORRECTIONS, AND
NEW JERSEY DEPARTMENT OF EDUCATION,**

Respondents.

Ruby Kish, Esq., for petitioner, (Disability Rights New Jersey, attorneys)

Isabel Machado, Esq., for respondent, Newark Board of Education, (Machado Law Group, attorneys)

Gary J Cucchiara, Assistant County Counsel, for respondent, (Essex County Department of Corrections, attorneys)

Michael Vomacka, Deputy Attorney General, for respondent, New Jersey Department of Corrections, (Matthew Platkin, Attorney General of New Jersey, attorneys)

Rachel B. Kristol, Deputy Attorney General, for respondent, New Jersey Department of Education, (Matthew Platkin, Attorney General of New Jersey, attorneys)

Record Closed: April 7, 2025

Decided: April 11, 2025

BEFORE **JULIO C. MOREJON**, ALJ:

STATEMENT OF THE CASE

Petitioner, M.B. maintains that respondents Newark Board of Education (Newark BOE or the Board), Essex County Department of Corrections (Essex DOC), New Jersey Department of Corrections (NJDOC), and New Department of Education (NJDOE), (collectively respondents) have violated his right to a free appropriate public education (FAPE) under the Individuals with Disabilities Education Act (IDEA). 20 U.S.C. § 1400 et seq; equal access to education under Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. (“ADA”), Section 504, and the New Jersey Law Against Discrimination “NJLAD), N.J.S.A. 10:5-1, et seq., because of a break in services. M.B. seeks emergent relief in the form of an order directing Respondents to immediately provide him with educational services in accordance with his Individual Education Program (IEP) that was established when he was a minor and before his current detainment in an adult correctional facility.

ISSUES PRESENTED

1. Whether M.B., who is now nineteen years old, and detained in an adult correctional facility, and was identified as a student with a disability pursuant to 34 C.F.R. § 300.8, resulting in required services under an IEP when he was a minor and prior to his incarceration, is entitled to special education and related services in an adult correctional facility.
2. If yes, which respondent should be responsible to implement M.B.’s special education and related services program?

PROCEDURAL HISTORY

On March 10, 2025, petitioner M.B. filed a Due Process Petition (Petition) and Application for Emergent Relief with the New Jersey Department of Education, Office of Special Education (OSE). Petitioner seeks an order of emergent relief directing the respondents to immediately provide M.B. with educational services at the Essex County Correctional Facility (“ECCF”).

On March 11, 2025, the matter was transferred to the Office of Administrative Law (OAL) for a hearing on the emergent relief application, on March 19, 2025. On March 14, 2025, an initial status conference was held and the parties agreed to waive oral argument and for the respondents to submit their opposition for to the emergent relief application on March 26, 2025, and petitioner to submit his reply on March 31, 2025. I closed the record on April 8, 2025, because of the complexity of the issue involved necessitating additional research.

FINDINGS

The facts contained in the statement of facts from the underlying Due Process petition dated March 10, 2025, are uncontested, and I **FIND** the same as **FACT** herein.

M.B. is nineteen years old and is eligible to receive special education services. M.B. was found eligible for special education services by the Irvington Board of Education (Irvington BOE) in 2015. The Irvington BOE did not provide M.B. with appropriate supports and services, in accordance with an IEP, placing him in a school for students with behavioral disabilities rather than addressing his significant academic deficits. M.B. is currently detained in the Essex County Correctional Facility, in Newark, New Jersey.

From 2021 through 2024, M.B. was in and out of the Essex County Youth Detention Center (Essex Youth Detention) as well as other residential facilities. During this time, while detained in these state and county youth detention facilities, M.B. was not provided with FAPE in accordance with the IEP, as he was not reevaluated in order to

develop an appropriate IEP and by failing to allow M.B. to attend school for the hours and days required. As a result, in April 2024, M.B. filed a due process petition under OAL Docket Number, EDS 06533-24, against the Essex Youth Detention, the Juvenile Justice Commission and the Essex Regional Educational Services Commission. The matter eventually settled, entitling him to receive two hundred and fifty hours of compensatory education. M.B. has yet to receive any of this compensatory education.

When M.B. was released from the Essex Youth Detention in July 2024, he immediately began the process of enrolling in the Newark BOE. M.B. was initially denied enrollment in the Newark school district, resulting in his filing a due process petition and request for emergent relief. In December 2024. The matter is pending at the OAL under docket number EDS 17151-2024.

M.B. was arrested on December 27, 2024, and is currently detained in the Essex County Correctional Facility. At the time of his arrest, M.B. was a student in the Newark school district, and the Newark BOE had not conducted an IEP meeting in order to place him in his required special education services under the IEP. M.B. has remained at the Essex County Correctional Facility since his arrest, without access to any educational services under his IEP.

SUMMARY

Below is a summary of the parties respective position in this matter.

Petitioner, M.B.

M.B. contends he is entitled to emergent relief because the contested matter involves a break in the delivery of services by respondents. M.B. argues that due to the ongoing denial of education services, he has suffered and will continue to suffer irreparable harm if emergent relief is not granted. Petitioner cites C.M. obo J.M. v. Red Bank Bd. Of Educ., EDS 05106-22, final decision, (July 10, 2022), where a district removed a petitioner from school after he committed a school conduct violation, then allowed him to attend a class a day in person for over six months. The Administrative Law

Judge (ALJ) in C.M. concluded that the denial of education without a plan to resume full educational services would result in irreparable harm.

M.B. asserts that being denied access to even the minimal educational services that he could have received through home instruction robbed him of the opportunity to recoup academic skills. This results in a type of harm that cannot be compensated by monetary relief and should therefore be deemed irreparable. M.B. claims he has the right to receive special education and related services while he is detained.

M.B. argues that the extended and indefinite nature of the respondents' denial of FAPE is a violation of the law. M.B. argues that as a result, he would thus prevail on the merits of the claim. M.B. argues that, when the equities and interests of the parties are balanced, he will suffer greater harm than the Respondents if the requested relief is not granted.

In his reply brief, M.B. addresses the four prongs for emergent relief set forth in Crowe v. DeGioia, 90 N.J. 126 (1982), and codified at N.J.A.C. 6A:3-1.6(b). Briefly, Petitioner argues that 1) The complete denial of educational services results in irreparable harm to M.B., which compensatory education cannot remedy 2) M.B. has a settled legal right to receive special education and related services at the Essex County Correctional Facility, even where state laws assigning responsibility for that education are unclear; 3) M.B. has a likelihood of prevailing on the underlying claim because there is no dispute that he is entitled to receive special education services, and 4) The balance of equities favors M.B. since challenges in providing educational services do not relieve Respondents of their duties under IDEA.

Newark Board of Education

The Newark BOE argues that M.B. will not be irreparably harmed if his requested relief is not granted in regard to Newark BOE. The Newark BOE's main argument is that it is not responsible for educating M.B. while he is incarcerated, as it does not have access or the ability to provide an education for M.B. while he is incarcerated. Newark BOE

contends that the place where he is incarcerated (Essex County Correctional Facility) has the ability and responsibility to educate him.

The Newark BOE next argues that the legal right underlying M.B.'s claim is well-settled in the Board's favor and M.B. does not have a likelihood of prevailing on the merits. The Board states that M.B.'s main argument for including the Board is grounded in his main argument that the Board has an obligation to educate the student, but he provides no legal basis to obligate the local board of education to educate a student while he is incarcerated.

In an effort to highlight its argument, the Newark BOE relies on the fact that M.B. had previously sought to include them in the emergent due process filed in April 2024, with the OSE, where the Board was eventually dismissed as a responsible respondent party. In the April 2024 emergent action, M.B. was housed as a juvenile at the Essex Youth Detention and sought to include the Board as a respondent. However, at the time the April 2024 emergent action was filed, M.B. was not enrolled in the Newark school district, which formed the basis for the Board's dismissal from the action.

The Newark BOE reargues in this matter, the same legal argument made in the April 2024 emergent action as to why the underlying emergent action should be dismissed herein. The only difference in this action from the previous action, the Board argues, is that M.B. is no longer a juvenile, so he is in the county adult facility and not the county juvenile facility. As such, the Board argues that the education responsibility for M.B. has passed from the New Jersey Juvenile Justice Commission to the New Jersey Department of Corrections which monitors county correctional centers as well as the facilities. For the reasons stated in its brief as to the first three Crowe factors, the Board argues that a balance of the parties' interests overwhelmingly weighs in favor of dismissal of the Newark Board of Education from the matter.

Essex County Department of Corrections

Essex DOC contends that M.B. fails to meet the standards required for relief to be granted, as enumerated in Crowe v. DeGioia. Specifically, Essex DOC first claims that

M.B. has not established that he has a settled right to education from the Essex DOC. When the juvenile charges against M.B. were dismissed, M.B. was released from the Essex Youth Detention. After his release, M.B. was charged with adult criminal charges for aggravated assault and attempted murder. Consequently, the Essex DOC argues that M.B. is not entitled to education from them.

Essex DOC also argues that M.B. did not request Essex DOC to provide the educational services. Rather, according to Essex DOC, M.B. was engaged in discussion with Newark BOE and the NJDOE. Essex DOC therefore argues that it is not an involved party in this matter. Essex DOC denies that it is responsible for M.B.'s education while incarcerated in its facility. But it agrees that the other respondents should be responsible instead.

Essex DOC cites 20 U.S.C.A. 1400 et seq. to support that public boards of education are required to provide special education students with the right to FAPE pursuant to IDEA, it argues that the Newark BOE should therefore be liable. Essex DOC then cites N.J.A.C. 6A:14-9.1 to support that NJDOE is responsible for monitoring all programs and services required for approved special education plans at adult correctional facilities, and points to NJDOE's failure to cooperate with M.B. regarding the provision of educational services.

The Essex DOC argues further that since neither M.B. nor the NJDOE identified any noncompliance by the Essex DOC, it was not aware that M.B. was requesting special education and related services while under its care. Essex DOC then states that NJDOC, together with NJDOE, are responsible for any special educational services to M.B., because they have the authority to monitor, supervise and establish guidelines for the provision of educational services and programs for inmates at county correctional facilities, pursuant to N.J.A.C. 10A:31-1.1 et seq. According to Essex DOC, nothing in the record supports that it was requested to comply with the provision of services requested by M.B.

Essex DOC concludes that all costs and services should be the responsibility of the other respondents, and requests the application for emergent relief to be denied and dismissed as against Essex DOC

New Jersey Department of Corrections

NJDOC argues that, since M.B. is incarcerated in a county facility rather than a State facility, it has no part in this matter and the motion should be dismissed against them. NJDOC contends that the OAL does not have jurisdiction to hear this matter against them, and that M.B. fails to prove that all Crowe factors are satisfied.

NJDOC further states that it is not required to provide special education to M.B. because he has never been housed in a State facility. The OAL explicitly recognizes that county jails are not State facilities and cites Board of Educ. Of the Lower Camden County Regional Sch. Dist. No. 1 v. State of New Jersey, Dept. of Educ., Bureau of School Finance, OAL Dkt. Nos. EDU 8578-98 & EDU 8579-98, Agency Dkt Nos. 369/98 & 370-8/98, to substantiate its argument.

NJDOC also states that it does not have relevant regulatory authority in the subject matter, and even if it did, it would still not be responsible for M.B.'s education because N.J.A.C. 10A:31-1.5 confers the Commissioner of the New Jersey Department of Corrections with permissible authority, rather than mandatory authority, Petitioner has no right to relief from NJDOC.

For the foregoing reasons, NJDOC requests that M.B. emergent relief be denied and NJDOC be dismissed from the action.

New Jersey Department of Education

The NJDOE contends that it is not responsible for providing the relief sought by M.B., and that M.B. is not likely to prevail on the merits of the claim against them. First, NJDOE argues that there is insufficient evidence to show that M.B. is, or will imminently be, experiencing irreparable harm.

Second, the NJDOE states that M.B. failed to establish how the NJDOE is responsible for the alleged harm or its resulting remedy. It states that under the IDEA, local education agencies (“LEA”) are generally tasked with directly providing students with FAPE. The NJDOE argues that in very limited specific circumstances should a State education agency step in in lieu of an LEA. 20 U.S.C.A. 1413(g). Consequently, NJDOE asserts that the district board of education is responsible for the provision of programs and services. The NJDOE argues that, while M.B. is entitled to FAPE consistent with his IEP, the NJDOE is not the entity required to implement it.

Finally, the NJDOE argues that since M.B. has failed to establish the factors under N.J.A.C. 6A:14-2.7(s)(1) and Crowe, NJDOE requests that his petition be denied and dismissed against them.

LEGAL ANALYSIS AND CONCLUSION

1. Right to FAPE under the IDEA

This case arises under the Individuals with Disabilities Education Act, 20 U.S.C.A. §§ 1400 to 1482 (the Act). One purpose of the Act, among others, is to ensure that all students with disabilities have available to them a “free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.” 20 U.S.C.A. § 1400(d)(1)(A). This “free appropriate public education” is known as FAPE. The Act defines FAPE as special education and related services provided in conformity with the IEP. See 20 U.S.C.A. § 1401(9).

A FAPE and related services must be provided to all students with disabilities from age three through twenty-one, including students with disabilities who have been suspended or expelled from school. See N.J.A.C. 6A:14-1.1(d). See also 20 U.S.C. 1412(a)(1)(A).

A FAPE means special education and related services that: a) have been provided at public expense, under public supervision and direction, and without charge; b) meet

the standards of the State educational agency; c) include an appropriate preschool, elementary, or secondary school education in the State involved; and d) are provided in conformity with the IEP required under sec. 614(d). 20 U.S.C.A. § 1401(9); N.J.A.C. 6A:14-1.1 et seq.

2. Limitations to the requirement of the provision of special education services for incarcerated adult students with disabilities

A person with a disability may still be entitled to FAPE after a criminal conviction and consequential incarceration in a county jail or state prison. The IDEA limits FAPE for students aged eighteen through twenty-one to the extent that state law does not require that special education and related services under Part B be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility: 1) Were not actually identified as being a child with a disability under 34 C.F.R. § 300.8; and 2) Did not have an IEP under Part B. 34 C.F.R. § 300.102 (a)(2)(i)]

The exception above does not apply to students with disabilities aged eighteen through twenty-one who had been identified as a child with a disability under 34 C.F.R. § 300.8 and had received services in accordance with an IEP but left school prior to their incarceration. 34 C.F.R. § 300.102(a)(2)(II)(A).[emphasis supplied]. I **CONCLUDE** that since M.B. was classified and had an IEP before his incarceration, the exception to FAPE does not apply.(34 C.F.R. § 300.102 (a)(2)(i).

Here, M.B. is a nineteen-year-old individual who was first classified for special education and related services and obtained an IEP in 2015, while he was a minor matriculated in the Irvington School district. The records do not mention any evaluations or subsequent IEP until 2024, before he was released from the Essex Youth Detention. M.B. then sought to enroll and was admitted into the Newark School District, at the time he was incarcerated in December 2024. While M.B. claims that Newark BOE issued an IEP in October 2024, it appears that was not the case, as Newark BOE states in its brief that an IEP meeting was scheduled in January 2025, and M.B. does not counter the same.

Even if the Newark BOE did provide an IEP, it did not provide M.B. with placement as M.B. was arrested in December 2024 and is now detained in the Essex Correctional facility and awaits an updated IEP and placement.

3. Agency responsible for FAPE

The IDEA generally requires state education agencies (often referred to as an “SEA”) to make FAPE available to all student with disabilities ages three to twenty-one. See 34 C.F.R 300.101(a). The State’s governor (or other authorized official) decides which agency will provide FAPE to students with disabilities who are convicted as adults and incarcerated in adult prisons. See 34 C.F.R. § 300.149(d). No matter which agency the state designates to provide special education services to incarcerated students with disabilities, the SEA remains responsible for IDEA compliance. See, e.g., Delaware Dep’t of Educ. Prison Adult Educ. Program, 113 LRP 51158 (SEA DE 07/03/13) (determining that the Delaware Department of Education, through its Prison Adult Education Program, failed to provide FAPE to adult incarcerated students and pretrial detainees).

When State law is unclear as to which agency is responsible for FAPE, a court may assign that responsibility to a specific agency. See, e.g. L.A. Unified Sch. Dist. v. Garcia, 62 IDELR 148 (Cal. 2013) (identifying the district in which the parent lived when the student reached adulthood as responsible for FAPE during the student’s incarceration in a county jail) ; See also Brown v. District of Columbia, 74 IDELR 140 (D.D.C. 2019) (because a District of Columbia prison denied responsibility for an adult student’s special education services, the SEA had to ensure the student received FAPE).

Even if a public agency is not responsible for providing FAPE to incarcerated students with disabilities, it may be liable for interfering with the delivery of FAPE. See, e.g., T.H. v. DeKalb County Sch. Dist., 79 IDELR 196 (N.D. Ga. 2021)(holding a county sheriff jointly responsible for a Georgia district’s denial of FAPE based on her failure to ensure the district had access to incarcerated students with disabilities).

In addition, the public agency responsible for FAPE must ensure that incarcerated adult students with disabilities receive all services required by their IEPs. See 34 C.F.R.

§ 300.323(c)(2) (requiring the public agency to implement a student's IEP "as soon as possible").

4. Standard for Emergent Relief

Pursuant to N.J.A.C. 6A:14-2.7(s)(1), emergent relief may be requested according to N.J.A.C. 1:6A-12.1 and may be granted if the administrative law judge determines from the proofs that:

- (1) The petitioner will suffer irreparable harm if the requested relief is not granted;
- (2) The legal right underlying the petitioner's claim is settled;
- (3) The petitioner has a likelihood of success on the merits of the underlying claim; and
- (4) When the equities and interest of the parties are balanced, the petitioner will suffer greater harm than the respondent will suffer if the requested relief is not granted.

[See, Crowe v. DeGioia, 90 N.J. 126 (1982), codified at N.J.A.C. 6A:3-1.6(b)]

To prevail on an application for emergent relief, M.B. must meet all four prongs as set forth above. As discussed herein and determined as **FACT** in this matter, M.B. was classified and obtained an IEP prior to his arrest and current detainment. M.B. is therefore entitled to FAPE, which respondents do not deny. The non provision of special education for M.B. constitutes a violation of IDEA, the issue becomes which, if any respondent is responsible to provide. Because M.B. is entitled to FAPE, which respondents do not contest, and the proofs establish a break in services that would continue while M.B. remains housed in detention, I **CONCLUDE** M.B. will suffer irreparable harm if the requested emergent relief is not granted.

The legal right underlying the petitioner's claim is not fully settled, because the IDEA does not delineate which public agency within a state is responsible for providing services to eligible incarcerated students. However, whether the public agency responsible is the school district the student attended before being taken into custody, the state corrections department, a special school district assigned to serve the state's

prison population, or another agency is a matter of state law. See 20 U.S.C.A. 1412(a)(11)(c). In L.A. Unified Sch. Dist. v. Garcia, 62 IDELR 148 (Cal. 2013), the California Supreme Court informed the 9th U.S. Circuit Court of Appeals that a state statutory provision generally affixing responsibility for the provision of FAPE to districts of residence also applies to adult students in county jail.

While the regulations are specific to juveniles being held in juvenile correctional facilities, if we apply the standard of L.A. Unified Sch. Dist. v. Garcia, and unless contrary to the law and regulations, it is reasonable to infer that the same regulations apply for student with disabilities ages eighteen to twenty-one held in county jails. Apart from a state's supervisory responsibilities, a state can be required to provide direct services to a child if the relevant local educational agency (LEA) is unable or unwilling to provide those services. 20 U.S.C.S. § 1413(g). The state is also responsible for providing services when there is no state law or regulation that delegates its responsibility. In most circumstances, however, a state will assign responsibility for providing special education services to an LEA, such as a school district. L.A. Unified Sch. Dist. v. Garcia.

For the forging reasons, I **CONCLUDE** that the legal right underlying M.B.'s claim that he is entitled to rights afforded students with disabilities under the IDEA, while an incarcerated or detained adult, is established herein.

As to M.B. having a likelihood of success on the merits of the underlying claim, I **CONCLUDE** that the same is established, as 20 U.S.C.A. 1412, 34 C.F.R. § 300.3 applies to each State that receives payments under Part B of the IDEA, as defined in 34 C.F.R. § 300.4 and its provisions apply to all political subdivisions of the State that are involved in the education of children with disabilities, including: (i) SEA; (ii) LEAs, ESAs, and public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA; (iii) other State agencies and schools (e.g. Departments of Mental Health and Welfare and State schools for children with deafness or children with blindness; (iv) State and local juvenile and adult correctional facilities. 34 C.F.R. § 300.2(b)(1). Its provisions are binding on each public agency in the State that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B of the IDEA. 34 C.F.R. § 300.2(b)(2).

Moreover, any SEA, State agency, or LEA that receives assistance under 20 U.S.C.A. 1411 et seq. must establish and maintain procedures to ensure that students with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of FAPE by such agencies. 20 U.S.C.A. 1415 (a). In New Jersey, the Legislature elaborates the responsibility of the Commissioner of Education regarding ensuring that students in state facilities receive an appropriate education. See N.J.S.A. 18A:7B-5; N.J.A.C. 6A:17-1.1 to -1.2; N.J.A.C. 6A:17-3.1 to-3.7; N.J.A.C. 6A:14-8.1 to -8.3. The regulations require the provision of educational programs and services to disabled students between the ages of three and twenty-one who do not have a high school diploma and who reside in the DOC's facilities. N.J.A.C. 6A:17-3.1.[emphasis supplied]

In addition, according to N.J.A.C. 6A:14-8.1(c), “[a]ll students with disabilities [in the DOC] shall receive an educational program and related services based on an IEP.” And when a special education student is placed in the DOC by a public agency other than a district board of education, the DOC shall conduct “an immediate review of the classification and IEP . . . and the student shall be placed in a program consistent with the goals and objectives of the current [IEP.]” N.J.A.C. 6A:14-8.1(h).

As to the final prong in N.J.A.C. 6A:14-2.7(s)(1), and under Crowe, when balancing the equities and interests of the parties, I **CONCLUDE** that M.B. will suffer greater harm than the respondents if the requested relief is not granted, as the IDEA provides, and the respondents concur that M.B. is entitled to FAPE. Notwithstanding the respondents arguments that while M.B. is entitled to FAPE, each respective respondent is unable to provide the same because he is incarcerated in an adult facility, I refer respondents to 34 C.F.R. § 300.324(d)(2)(i). The same provides that an IEP may be modified if there is “a bona fide security or compelling penological interest that cannot otherwise be accommodated”.

The respondents unwillingness to be the responsible party to provide M.B. with FAPE because of the cost involved, lack of personnel to deliver on the IEP placement, staff shortages or other inability to deliver the necessary services, would not justify a

public agency's failure to provide all IDEA services required by an incarcerated adult student's IEP. See Letter to Duncan, 73 IDELR 264 (OSEP 2019) (neither a state's unwillingness to spend money on special education nor administrative convenience qualify as "compelling penological interest" that would allow a public agency to modify an incarcerated adult student's IEP); See also Baltimore County Pub. Schs., 119 LRP 14627 (SEA MD January 31, 2019) (ordering a Maryland district to provide compensatory education to a student with ADHD who received only 60 percent of his IEP-mandated instruction due to teacher's limited availability); Charles H. v. Dist. of Columbia, 79 IDELR 14 (D.D.C. 2021) (ordering the District of Columbia to provide IEP services to 44 adult students with disabilities who were incarcerated in the D.C. jail during the COVID-19 pandemic); and Dist. of Columbia Pub. Schs., 121 LRP 6870 (SEA DC 2021) (finding that providing learning packets every two weeks to a jailed student with multiple disabilities fell well short of the District of Columbia Public Schools' obligation to provide students equal access to education during the COVID-19 pandemic.)

I **CONCLUDE**, based upon the forgoing that M.B. has presented sufficient proofs to establish emergent relief pending the decision in the due process petition.

Students with disabilities do not lose their right to FAPE simply because they are convicted as adults under state law and incarcerated in adult prisons. However, the special education services a student with a disability receives in an adult correctional facility will not mirror those that the student received in the school setting. Incarceration can affect an IDEA-eligible student's service hours, participation in general assessments, and, in some instances, postsecondary transition planning.

I **CONCLUDE** further that all respondents herein failed to provide FAPE to M.B. and should share the responsibility of providing M.B. with FAPE as requested in his petition for due process. In the absence of an IEP, it is challenging to determine the appropriate amount of compensatory education to which M.B. would be entitled, and I **CONCLUDE** that respondents coordinate and convene an IEP meeting to establish the necessary evaluation(s), in order to determine the proper program.

ORDER

IT IS ORDERED that in accordance with reasons set forth above, M.B.'s application for emergent relief is granted, and it is further,

ORDERED that within ten (10) days of the date herein, respondents immediately convene and begin the process of providing M.B. with FAPE as required under the IDEA. Specifically, **IT IS ORDERED** that respondents coordinate an IEP meeting, remote or in-person, and determine the necessary evaluation(s) to commence the program set forth in the IEP.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2018) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. § 300.516 (2018). 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 Programs.

April 11, 2025

DATE


JULIO C. MOREJON, ALJ

Date Received at Agency

April 11, 2025

Date E-Mailed to Parties:

April 11, 2025

JCM/lr