State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER GRANTING
EMERGENT RELIEF
OAL DOCKET NO.: EDS 15869-25
AGENCY REF. NO.: 2026-39746

M.G. AND A.C. ON BEHALF OF L.C.,
Petitioner,
v.
SOUTH ORANGE-MAPLEWOOD
BOARD OF EDUCATION
Respondent.

Lori M. Gaines, Esq., for petitioners, (Barger & Gaines, attorneys)

Danielle N. Pantaleo, Esq., for respondent, (The Busch Law Group, attorneys)

Record Closed: September 23, 2025 Decided: September 30, 2025

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

STATEMENT OF THE CASE

Petitioners are requesting emergent relief seeking an Order directing respondent to immediately apply and then place L.C. in an out-of-district therapeutic school.

PROCEDURAL HISTORY

On September 12, 2025, petitioners, M.G. and A.C. on behalf of L.C. (Petitioners) filed a Due Process Petition (Petition) and Application for Emergent Relief (Emergent Relief) with the New Jersey Department of Education, Office of Special Education (OSE). Petitioners seek an order of emergent relief directing the respondent, South Orange-Maplewood Board of Education (the District or Board).

On September 12, 2025, the matter was transferred to the Office of Administrative Law (OAL) for a hearing on the emergent relief application on September 22, 2025.

As part of their Emergent Relief application, Petitioners included the following pleadings: Letter Brief, Certification of Michele Giordano (Exhibit A), the Certification of Ashley Beaton-Joseph (Exhibit B), the Certification of Dr. Ashley Crumby (Exhibit C), the Certification of Dr. Tina Snider (Exhibit D), Exhibits 1-22, and a proposed form of Order.

On September 17, 2025, Petitioners supplemented their Emergent Relief application and submitted a certification from Dr. Khushbu Shah, L.C.'s treating psychiatrist at Stepping Forward Counseling Centers. (Exhibit E).

On September 19, 2025, the District filed its opposition to Petitioners' emergent relief application, including the Certification of Dana Franza, and a psychiatric evaluation conducted by Dr. Akinlabi Sanusi (Exhibit A).

Oral argument was held on September 22, 2025, via Zoom remote video platform.

Thereafter, on September 23, 2025, in response to Petitioner' submission of a copy of the decision Burlington Twp. BOE v. E.B. o/b/o J.B, OAL Dkt. No. EDS 14407-24 (Oct. 17, 2024), the District submitted further opposition to the Petitioners' Emergent Relief request. On September 23, 2025, Petitioners submitted their response to the District's additional opposition. I closed the record on September 23, 2025.

DISCUSSION AND FINDINGS OF FACT

The following is derived from the pleadings filed herein, which I **FIND** as **FACT**:

L.C.'s current Individualized Education Program ("IEP") recommends an in-district placement at South Orange Middle School ("SOMS") with therapeutic support and services provided by the Effective School Solutions program, (previously known as "I-Step," now known as "ESS"). Petitioners claim that in order to receive a free, appropriate public education ("FAPE"), L.C. requires a therapeutic program that can only be provided in an out-of-district placement.

While L.C. has always received special education, his previous IEPs did not previously require placement with therapeutic support services as the District proposes, or a therapeutic program in an out-of-district school, as requested by Petitioners. Rather, L.C.'s special education over time has been predicated on the adverse impact of his Attention Deficit Hyperactivity Disorder ("ADHD") on his education.

L.C. first received preschool special education from the District. In Kindergarten, his eligibility for special education transferred from the Preschool Child with a Disability category to the Other Health Impaired category, due to his ADHD. From Kindergarten (2018-2019) through fifth grades (2023-2024), the District provided L.C. with special education programming via the support of an in-class resource teacher within general education classes. This support within the general education classroom was appropriate and adequate to manage the manifestations of his ADHD in the classroom and, as a result, he progressed meaningfully in school.

As the start of middle school drew near in September 2024, Petitioners reported that L.C. began expressing nervousness and jitters about the transition to a new and larger school. He also received a new diagnosis of Obsessive Compulsive Disorder. In an effort to provide L.C. with some support through this transition, his parents emailed the District requesting that the District provide him with school-based counseling via its iStep program (previously known as "I-Step," now known as "ESS"). The District refused this

request stating that L.C. was not a student who required any formalized school-based counseling in school. Thereafter, L.C. started sixth grade (2024-2025) at the Maplewood Middle School without any support via the ESS program. L.C. did continue to receive support from an in-class resource center within his general education academic classes due to his ADHD.

At the beginning of the 2024-2025 school year, L.C. attended an in-district program at Maplewood Middle School pursuant to his IEP. Following alleged incidents of bullying involving L.C. that occurred during the 2024-2025 school year, which resulted in HIB allegations filed by Petitioners, L.C.'s in-district placement was changed from Maplewood Middle School to SOMS, as requested by Petitioners. L.C. would briefly attend SOMS commencing on March 20, 2025, for approximately eight (8) to nine (9) days, however, due to an alleged physical assault to L.C. in March 2025, resulted in his no longer attending SOMS.

On April 2, 2025, L.C. wrote a statement expressing suicidal ideation. As a result, the District conducted a Risk Assessment of L.C. Based on the results of the Risk Assessment, the District required Petitioners to take L.C. to the Emergency Room to obtain psychiatric clearance to return to school. Petitioners immediately took LC to the Emergency Room at Goryeb Children's Hospital for a psychiatric evaluation. That evaluation in turn led to L.C.'s inpatient hospitalization from April 3 through April 7, 2025, at University Behavioral Healthcare at Rutgers (UBHC).

L.C. was not cleared to return to school after the inpatient hospitalization and on April 18, 2025, he was enrolled in the Partial Hospitalization Program at Stepping Forward Counseling Center (Stepping Forward). On May 12, 2025, Stepping Forward, confirmed that L.C., was now in treatment for Major Depressive Disorder, Generalized Anxiety Disorder, and Post-Traumatic Stress Disorder ("PTSD").

On May 18, 2025, Stepping Forward advised Petitioners that "…it is evident that his complex mental health diagnoses continue to impact his daily functioning. To support his continued growth and stability, it is essential that LC be provided with appropriate

accommodations and therapeutic supports." Specifically, the Team advised that when LC returned to school in September 2025, he would require, among other things,

- A small classroom setting with reduced stimuli
- One-to-one instructional support
- Frequent teacher check-ins to ensure comprehension and emotional regulation
- Preferential seating near the teacher
- Opportunities to take breaks within the classroom setting, including therapeutic breaks with a counselor
- Access to a clinician throughout the school day for emotional and behavioral support
- Positive reinforcement, with a focus on verbal praise and validation
- A highly structured therapeutic classroom environment that promotes consistency, predictability, and emotional safety.

[Petitioners, Exhibit 12]

Over the summer of 2025, L.C. continued to receive intensive therapeutic intervention at Stepping Forward. In anticipation of the 2025-2026 school year and Petitioners' request for L.C.'s placement in a therapeutic school based on the determinations from the mental health professionals at Stepping Forward the District arranged for L.C. to meet with its consulting psychiatrist, Dr. Akinlabi Sanusi (Dr. Sanusi). Dr. Sanusi's psychiatric evaluation of L.C. was conducted on July 9, 2025, and the evaluation report was completed on or about July 23, 2025 (Certification of Dana Franza, Exhibit A, and Petitioners' Exhibit 13)

L.C. confirmed to Dr. Sanusi that even after transferring schools he was having bad thoughts like he should hurt himself or he should die. Dr. Sanusi spoke with Dr. Khushbu Shah (Dr. Shah), L.C.'s psychiatrist at Stepping Forward. Dr. Shah shared that L.C. "will need a therapeutic school environment when discharged from Stepping Forward." Dr. Sanusi concluded that L.C. "…would benefit from initiatives with symptoms of Major Depressive Disorder, severe with Psychotic features, Attention Deficit Hyperactivity Disorder, Obsessive Compulsive Disorder and Generalized Anxiety Disorder. LC may benefit from an educational setting that provides appropriate therapeutic support, supervision, and structure." (Petitioners' Exhibit 13)

In the psychiatric evaluation report, Dr. Sanusi noted that L.C. was functional and interactive with his peers: that L.C. was not bullied at SOMS; L.C. feels comfortable with returning to SOMS. In his evaluation report, Dr. Sanusi opined that L.C. may benefit from an educational setting that provides appropriate therapeutic support, supervision, and structure. (Certification of Dana Franza, Exhibit A).

Sometime in August 2025, Petitions began speaking with L.C. about returning to school. Stepping Forward did as well. As the District had not yet met to revisit L.C.'s IEP program and placement in light of the recommendations from Stepping Forward, and Dr. Sanusi, Petitioners spoke with L.C. about the possibility of his returning to South Orange Middle School. L.C. immediately fought back against returning to the public school – even SOMA, where he had attended for days in March 2025, before being hospitalized. L.C. told his parents and Stepping Forward that if he had to return to the public school his brain would kill himself.

On August 13, 2025, the parties convened for an IEP meeting to review L.C.'s program and placement in preparation for the upcoming 2025-2026 school year. On the eve of that August 13 IEP meeting, Stepping Forward issued a letter, which stated that "L.C. reports that thinking about the upcoming school year, past negative experiences in the school setting (bullying) and fears of having to return to the school which caused him immense trauma has induced his current anxiety symptoms. L.C. continues to experience this heightened anxiety especially at night when thinking about the upcoming school year." (Petitioners' Exhibit 15).

During the IEP meeting held on August 13, 2025, the District proposed an IEP which recommended an in-district placement consisting of the District's in-school therapeutic education program (ESS) at SOMS, and the IEP team explained to Petitioners that this program and placement constitutes an offer of a free, appropriate public education FAPE for L.C. in the least restrictive environment appropriate for L.C.'s educational needs.

Petitioners disagreed with the proposed IEP and demanded that the District offer a similar therapeutic program for L.C., but located outside of the District, as they claimed

that L.C. cannot safely or appropriately return to SOMS or any other public school. Moreover, as presented in oral argument, Petitioners are unable to unilaterally enroll L.C. in a therapeutic out-of-district school, as the therapeutic schools all require L.C.'s IEP provide for the same.

LEGAL ANALYSIS AND CONCLUSION

In special education matters, emergent relief shall only be requested for the following issues:

> i. Issues involving a break in the delivery of services;
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> ii. Issues involving disciplinary action, including manifestation determinations and determinations of interim alternate educational settings;
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> iii. Issues concerning placement pending the outcome of due process proceedings; and
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> iv. Issues involving graduation or participation in graduation ceremonies.
>
> [N.J.A.C. 6A:14-2.7(r)(1).]

Here, Petitioners seek an order of Emergent Relief due to issues concerning placement pending the outcome of the due process hearing, which I **CONCLUDE** is proper pursuant to N.J.A.C. 6A:14-2.7(r)(iii), and Petitioners are within their right to seek this order.

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, Petitioners must meet all four prongs as set forth above. Crowe, 90 N.J. at 132-34. First, the petitioner must demonstrate that irreparable harm will occur if the requested relief is not granted. Harm is irreparable when there can be no adequate after-the-fact remedy in law or in equity; or where monetary damages cannot adequately restore a lost experience. Crowe, 90 N.J. at 132-133; Nabel v Board of Education of Hazlet, EDU 8026-09, Final Decision on Application for Emergent Relief (June 24, 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. Ocean Twp. Bd. of Educ. v. J.E. and T.B. o/b/o J.E., 2004 N.J. AGEN LEXIS 115, Initial Decision (Feb. 23, 2004). It is settled in New Jersey that a safe and civil environment in the school is necessary for students to learn, and disruptive or violent behaviors disrupt a school's ability to educate its students in a safe environment. N.J.S.A. 18A:37-13; see also Elizabeth Bd. of Educ. v. T.D. o/b/o E.D, 2015 N.J. AGEN LEXIS 160, Initial Decision (Mar. 27, 2015)

As discussed herein and determined as **FACT** in this matter, all evaluating and treating professionals who have treated L.C. require a placement in a therapeutic school. However, the District continues to propose that L.C. return to the public school where he will attend all general education classes with minimal counseling support.

All treating professionals advise that the District's offered therapeutic program is inappropriate as L.C.'s emotional dysregulation, including quite prominently his PTSD, stem from prior incidents of claimed and documented bullying, intimidation and harassment in school to the extent that school is now a trigger to his feeling suicidal. Thus, the treating professionals opine, forcing L.C. to return to the public school where

he has expressed feelings of unsafe is causing him to experience increased suicidal ideation is not appropriate and will not permit him to meaningfully benefit from his education. L.C. told all of his treating and evaluating professionals that he cannot return to the public school and is experiencing a marked increase in intrusive and suicidal thoughts based on just the prospect of having to return there.

As I **FIND** herein a return to the School District and their proposed therapeutic program places L.C. in a situation where he risks harm as he is telling everyone he speaks with that placement back in the public school is making him suicidal. If forced to return, he risks harm to himself through self-injury, attempted suicide, or even completed suicide. He also risks further emotional deterioration as well as a continued disruption to his education.

Since the District does not agree to place L.C. in an out-of-district placement, Petitioners cannot unilaterally place him in an out-of-district placement, causing L.C. to have to wait the many months it will take for this case to be prepared, tried, and decided at the conclusion of a due process hearing, before his placement is changed. I **FIND** that L.C. requires an immediate change of placement to a therapeutic school upon discharge from Stepping Forward and thus I **CONCLUDE** Petitioners will suffer irreparable harm if emergent relief is not granted.

As stated herein, in addition to determining that L.C. will suffer irreparable harm when there is a substantial risk of physical injury, I **CONCLUDE** that irreparable harm has also been also established because L.C.'s education will continue to be disrupted if he remains a patient at Stepping Forward. (See, West Windsor-Plainsboro Reg'l Sch. Dist. Bd. Of Educ. v. J.D., 1995 N.J. AGEN LEXIS 226). Said disruption will delay the delivery of appropriate educational services and consequently cause academic regression. (See also: CB o/b/o CB v. Jackson Twp. Bd. of Educ., EDS4153-09).

Because monetary damages are not available in educational cases, courts have determined that, "if compensatory education provided at a later date cannot remedy the situation, then the harm is irreparable." Ibid. (citing Howell Twp. Bd. of Educ. v. A.I. &

J.I. o/b/o S.I., No.: EDU 5433-12, Emergent Relief (May 2, 2012)). The District argued that there is no showing of irreparable harm because Petitioners can obtain compensatory education if they are successful in their due process petition.

Here, it is evident that compensatory education cannot remedy the situation before us. The purpose of compensatory education is to "replace educational services the child should have received in the first place," and the remedy "should aim to place disabled children in the same position they would have occupied but for the school district's violation of the IDEA." Ferren C. v. Sch. Dist. of Philadelphia, 612 F.3d 712, 717-18 (3d Cir. 2010) (internal citations omitted). This District's proposal of compensatory relief as an available remedy to Petitioners in rebutting the first prong is contrary to the intended purpose of compensatory education. To allow the District's argument to defeat irreparable harm would allow the district to use this remedy as a shield for continued action that serves to harm a student. For these reasons, I **CONCLUDE** that compensatory education cannot remedy the situation at hand.

The legal right underlying the petitioner's claim is fully settled, as 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).

To be appropriate, an IEP must be "reasonably calculated" to enable the child to receive educational benefits. Rowley v. Hendrick Hudson Sch. Dist., 458 U.S. 176, 201-03 (1982). In the Third Circuit, a satisfactory IEP must be "likely to produce progress, not regression or trivial educational advancement." Polk v. Cent. Susquehanna Sch. Dist., 853 F.2d 171 (3d Cir. 1988) cert. denied 488 U.S. 1030 (1989); see also Bd. of Educ. of E. Windsor Reg'l Sch. Dist. v. Diamond, 808 F.2d 987, 991 (3d Cir. 1986). The appropriate standard to apply is whether that IEP offers the opportunity for "significant

learning" and "meaningful educational benefit." Ridgewood Bd. of Educ. v. NE, 172 F.3d 238 (3d Cir. 1999). The Third Circuit further refined that standard to clarify that such educational benefit must be "meaningful," "achieve significant learning," and confer "more than merely trivial benefit." Id. Therefore, this determination requires a careful and individual analysis of each student's educational needs and abilities. Id.

In considering the individual needs of a particular student, we must look broadly, as education encompasses far more than just reading, writing and math. Battle v. Commonwealth of Pennsylvania, 629 F.2d 269 (3d Cir. 1980). In North v. Dist. of Columbia Board of Education, 471 F. Supp. 136 (D.D.C. 1979), the Court reasoned that there are certain students whose social, emotional, and educational needs are so intertwined "that realistically it is not possible for the court to perform the Solomon-like task of separating them." Id. at 141. When a student's emotional needs are inextricably intertwined with his education, "…the unseverability of such needs is the very basis for holding that the services are an essential prerequisite for learning."

N.J.A.C. 6A:14-4.3 prescribes the program options for students with IEPs. When placement within a public-school special education program cannot meet a student's needs, then subsection (b) allows for Districts to place students in out-of-district placements including, "A New Jersey approved private school for students with disabilities." As a result, the New Jersey Department of Education has approved numerous "therapeutic" private schools for students with disabilities that arise from emotional needs. (See, Approved Private Schools for Students with Disabilities (In State).

Here, multiple professionals have opined that L.C. requires therapeutic schooling to be appropriately educated and that the minimal counselling proposed by the District via the proposed IEP is inappropriate and inadequate to meet his needs. Rather, all treating and evaluating professionals agree that he requires the intensity of therapeutic schooling offered in a therapeutic school where the entirety of the program and school day is designed to address the emotional needs of the students. This is quite different from the program proposed by the District: continued placement in all general education classes with a mere thirty (30) minutes per week of individual counselling and a mere 30 minutes per week of group counselling.

For these reasons, I **CONCLUDE** that Petitioners have a well-settled right to a free appropriate public education, and that L.C. has a right to be educated in an out-of-district therapeutic school because his needs arise from his complex presentation necessitate such schooling for him to be appropriately educated.

As to Petitioners having a likelihood of success on the merits of the underlying claim, I **CONCLUDE** that Petitioners Emergent Application establishes that the District's proposed therapeutic program is not appropriate to L.C.'s emotional needs that arise from his PTSD, Major Depressive Disorder, and Generalized Anxiety Disorder. Therefore, I **CONCLUDE** Petitioners have a likelihood of success on the merits of the underlying claims.

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 Petitioners have demonstrated in their Emergent Relieve that they will suffer greater harm than the District if the requested relief is not granted, as the potential risk of bodily harm or even death to L.C. and a continued interruption to his education will occur, if he were to be placed in the District's therapeutic program.

The only harm that the District could claim it may suffer if Emergent Relief is granted is financial in that it would have to pay for a therapeutic school while awaiting the Court's decision on the underlying hearing. The question of the financial obligations that out-of-district schools impose on a school district has already been raised and adjudicated in favor of parents by the Office of Administrative Law. In JB, a Minor, by his Guardian Ad Litem, SB v. Manville Board of Education, EDS4756-97S, and therefore, I **CONCLUDE** the balance of the equities and interest are not in the District's favor.

ORDER GRANTING EMERGENCY RELIEF

IT IS ORDERED that in accordance with reasons set forth above, Petitioners' application for emergent relief is granted. **IT IS FURTHER ORDERED** that the District is to immediately apply to potential out-of-district therapeutic schools and immediately place

L.C. in an appropriate therapeutic school as soon as he is discharged from Stepping Forward.

This order on application for emergency relief remains in effect until a final decision is issued on the merits of the case. If the parent or adult student believes that this order is not being fully implemented, then the parent or adult student is directed to communicate that belief in writing to the Director of the Office of Special Education. Since the parents requested the due process hearing, this case is returned to the Department of Education for a local resolution session under 20 U.S.C. § 1415(f)(1)(B)(i).

September 30, 2025 — Julio Morejon

DATE — **JULIO C. MOREJON**, ALJ

Date Received at Agency: September 30, 2025

Date E-Mailed to Parties: September 30, 2025

JCM/lr