State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER
ON EMERGENT RELIEF
OAL DKT. NO. EDS 17269-25
AGENCY DKT. NO. 2026-39823

D.S. ON BEHALF OF M.K.,
Petitioner,
v.
PRINCETON PUBLIC SCHOOLS
BOARD OF EDUCATION,
Respondent.

Jeffrey Cox, Educational Advocate, for petitioner, pursuant to N.J.A.C. 1:1-5.4(a)(7)

Stacey Cherry, Esq., for respondent (Fogarty, Hara, LaPira & Cherry, LLC, attorneys)

BEFORE **WILLIAM T. COOPER III**, ALJ:

STATEMENT OF THE CASE

Petitioner D.S., on behalf of her son M.K., brings an action for emergent relief against respondent Princeton Public Schools Board of Education seeking an order: (1) requiring that the respondent immediately provide full-day academic instruction in district consistent with M.K.'s individualized education program (IEP); (2) requiring that the

respondent update M.K.'s IEP without a meeting within ten school days; and (3) requiring that the respondent calculate and provide compensatory education for the instructional time lost.

PROCEDURAL HISTORY

The petitioner filed a request for emergent relief and an underlying due process petition at the Office of Special Education (OSE) on or about October 3, 2025. The matter was transmitted to the Office of Administrative Law, where on October 6, 2025, it was filed as a contested case seeking emergent relief. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23. Oral argument regarding the application for emergent relief was conducted on October 9, 2025.

FACTUAL DISCUSSION

M.K. is a seventeen-year-old eleventh-grade student who is eligible for special education and related services under the classification of "other health impairment." During the 2024–2025 school year, M.K.'s IEP placed him at Hunterdon Preparatory School (Hunterdon), an approved out-of-district school for students with disabilities. On February 3, 2025, the IEP team agreed to continue the placement at Hunterdon for the 2025–2026 school year. During the summer of 2025, the District and petitioner agreed to look for a new out-of-district placement. With agreement, M.K.'s records were sent to various schools for consideration and, after competing intakes, petitioner and the District agreed to change M.K.'s placement to the Newgrange School (Newgrange), an approved out-of-district school for students with disabilities, for the 2025–2026 school year. On August 22, 2025, petitioner signed consent to implement the IEP amendment, changing M.K.'s placement to Newgrange.

On or about August 27, 2025, petitioner sought treatment for M.K. at Princeton House Behavioral Health[1] (Princeton House) without providing notice to respondents.

[1] Princeton House Behavioral Health is an outpatient facility associated with Penn Medicine that treats mental and behavioral health disorders in adolescents (see https://www.pennmedicine.org /services/mental-behavioral-health/princeton-house-behavioral-health/children-adolescents).

Upon learning of M.K.'s situation, the case manager reached out to petitioner to confirm that M.K. would begin at Newgrange with a modified day to accommodate M.K.'s continued treatment at Princeton House. On September 9, 2025, petitioner confirmed that M.K. would begin at Newgrange on September 14, 2025.

On September 12, 2025, petitioner left a message with the case manager saying that she was no longer in agreement with the placement at Newgrange. Petitioner also emailed on September 14, 2025, indicating that she did not want M.K. to attend Newgrange, that she wanted him to attend Princeton High School, and that he was continuing treatment at Princeton House three days per week from 12:30 p.m. to 3:30 p.m. on Monday, Tuesday, and Thursday until October 20, 2025. Respondent arranged for home instruction through Learn Well prior to being provided with any medical documentation from Princeton House or a request from petitioner.

The case manager followed up with the petitioner on September 15, 2025, and advised that they would need to consider a transition plan and look for a new out-of-district placement for M.K. Through follow-up email between petitioner's advocate and the assistant superintendent of student services, Ms. Margarita Baldeo, the petitioner indicated that she was seeking an in-district placement, and the respondent advised that the recommendation for an out-of-district placement was based on M.K.'s therapeutic and academic needs, but that all of the information would be reviewed at an upcoming IEP meeting.

On September 25, 2025, the petitioner filed a request for mediation. On October 3, 2025, petitioner filed the request for emergent relief and converted the request for mediation to a request for due process. Currently, M.K. is receiving home instruction with Learn Well.

LEGAL ANALYSIS AND CONCLUSION

N.J.A.C. 1:6A-12.1(a) provides that the affected parent(s), guardian, district, or public agency may apply in writing for emergent relief. An emergent relief application is required to set forth the specific relief sought and the specific circumstances that the

applicant contends justify the relief sought. Each application is required to be supported by an affidavit prepared by an affiant with personal knowledge of the facts contained therein and, if an expert's opinion is included, the affidavit shall specify the expert's qualifications.

Emergent relief shall only be requested for the following issues pursuant to N.J.A.C. 6A:14-2.7(r):

i. Issues involving a break in the delivery of services;

ii. Issues involving disciplinary action, including manifestation determinations and determinations of interim alternate educational settings;

iii. Issues concerning placement pending the outcome of due process proceedings; and

iv. Issues involving graduation or participation in graduation ceremonies.

Here, the petitioner maintains that there has been a break in the delivery of services since August 2025, because M.K. has not had access to the full-day educational program as mandated by his IEP. This position is unsupported by the facts. On August 22, 2025, the petitioner agreed to amend M.K.'s IEP to include an out-of-district placement at Newgrange. The petitioner unilaterally withdrew M.K. from Newgrange, claiming generally, and without any explanation, that it was detrimental to his emotional and academic development. Nevertheless, the respondent agreed to work collaboratively in seeking another placement. These efforts were complicated when the petitioner placed M.K. at Princeton House. Without prompting from the petitioner, the respondent arranged for temporary home instruction for M.K. from Learn Well. The petitioner is unsatisfied with the home instruction and filed a due process petition seeking district placement together with this request for emergent relief.

At this juncture, with a limited record, it is difficult for this tribunal to determine if M.K. should be maintained in an out-of-district placement or if, as stated in Dr. Madhurani Khare's letter of September 22, 2025, an in-district placement would be in M.K.'s best interest. (See exhibit A attached to P-2.) However, it is clear from the relevant facts that

the petitioner has failed to establish that the respondent caused a break in services. The petitioner's unilateral actions and lack of communication with M.K.'s case manager are the reason for any delay in services, and it is undisputed that M.K. is currently under home instruction through Learn Well.

Accordingly, I **CONCLUDE** that petitioner has failed to meet the requirements of N.J.A.C. 6A:14-2.7(r) and the motion for emergent relief is denied.

In addition, the standards for emergent relief are set forth in Crowe v. De Gioia, 90 N.J. 126 (1982), and 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.

The petitioner bears the burden of satisfying all four prongs of this test. Crowe v. De Gioia, 90 N.J. at 132–134.

The **first consideration** is whether petitioner will suffer irreparable harm if the requested relief is not granted. "Irreparable harm is shown when money damages cannot adequately compensate plaintiff's injuries." Hornstine v. Twp. of Moorestown, 263 F. Supp. 2d 887, 911 (D.N.J. 2003) (citing Sampson v. Murray, 415 U.S. 61, 90 (1974)). "More than a risk of irreparable harm must be demonstrated." Cont'l Grp., Inc. v Amoco Chems. Corp., 614 F.2d 351, 359 (3d Cir. 1980). "The requisite for injunctive relief has been characterized as a 'clear showing of immediate irreparable injury,' Ammond v. McGahn, 532 F.2d 325, 329 (3d Cir. 1976), or a 'presently existing actual threat; (an injunction) may not be used simply to eliminate a possibility of a remote future injury, or a future invasion of rights, be those rights protected by statute or by the common law.'

Holiday Inns of America, Inc. v. B & B Corporation, 409 F.2d 614, 618 (3d Cir. 1969)." Ibid. This was further explained by the New Jersey District Court:

> A party seeking a preliminary injunction must make "a clear showing of immediate irreparable injury." "Establishing a *risk* of irreparable harm is not enough. A plaintiff has the burden of proving a clear showing of immediate irreparable injury." Mere speculation as to an injury that will result, in the absence of any facts supporting such a claim, is insufficient to demonstrate irreparable harm.
>
> See Spacemax Int'l LLC v. Core Health & Fitness, LLC, 2013 U.S. Dist. LEXIS 154638, at *4–5 (D.N.J. Oct. 28, 2013) (internal citations and quotations omitted).

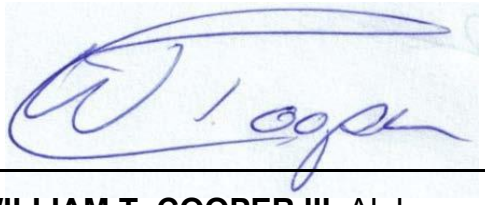
Here, the petitioner broadly states that M.K. is a "vulnerable student with emotional and behavioral regulation needs" and "the loss of academic continuity, structure, and peer engagement during this development period cannot be remedied by compensatory education services," thus M.K. will suffer irreparable harm. (See P-2 at page 2 section B.) This argument alone is speculative, and because petitioner does not provide any further factual support for it, I cannot find that irreparable harm will be suffered.

Accordingly, I **CONCLUDE** that petitioner has **failed** to establish that irreparable harm will be suffered if the relief requested is not granted. Based upon the petitioner's failure to establish irreparable harm, it is unnecessary to review the remaining criteria.

Having considered the parties' arguments and submissions, I **CONCLUDE** that the petitioner has failed to meet the standard for the entitlement to emergent relief. For the foregoing reasons, I **CONCLUDE** that the request for emergent relief is **DENIED**.

It is **ORDERED** that petitioner's motion for emergent relief is **DENIED**.

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).



October 10, 2025
DATE

WILLIAM T. COOPER III, ALJ

Date Received at Agency: October 10, 2025

Date Mailed to Parties: October 10, 2025

WTC/am/gd

APPENDIX

Witnesses

For petitioner

None

For respondent

None

Exhibits

For petitioner

P-1 Petition for Emergent Relief

P-2 Legal Memo of Jeffrey Cox, undated and submitted on October 9, 2025

For respondent

R-1 Respondent’s response to petition for emergent relief