



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING

EMERGENT RELIEF

OAL DKT. NO.: EDS 17463-25

AGENCY REF. NO.: 2026-39829

A.K. ON BEHALF OF E.H.,

Petitioner,

v.

ENGLEWOOD CITY BOARD OF EDUCATION,

Respondent.

A.K., pro se

Yolanda W. Greene, Esq., (Taylor Law Group, LLC, attorneys)
for respondents, Englewood City Board of Education,

Record Closed: October 16, 2025

Decided: October 17, 2025

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

STATEMENT OF THE CASE

Petitioner, A.K. on behalf of E.H., seeks an order by way of application for emergent relief to have respondent, Englewood City Board of Education, reinstate the student, E.H., in school and the nullification of the student's suspension pending the resolution of due process filed herein.

PROCEDURAL HISTORY

On October 6, 2025, petitioner A.K. on behalf of the student E.H., prepared and signed a Petition for Due Process (Petition), seeking reinstatement of student to school, accommodations in 504 Plan, and staff training for staff implementing of student's 504 Plan and a Request for Emergent Relief (Emergent Relief) seeking an order to have respondent, Englewood City Board of Education (the District), reinstate the student in school and the nullification of the student's suspension pending the resolution of due process.

Petitioner's Emergent Relief seeks emergent relief as follows:

1. Immediate reinstatement of E.H. to school and "nullification of his suspension";
2. Immediate restoration of access to New Jersey Graduation Proficiency Assessment (the NJGP"); and
3. Assurance that E.H.'s "disciplinary record will be corrected to remove this incident."
4. Implementation monitoring by New Jersey Department of Education (NJDOE) or an independent compliance officer, and
5. A manifestation determination meeting, including E.H.'s guidance counselor and a parent prior to any further disciplinary decisions.

Petitioner alleges that the District "has engaged in a series of actions that violate E.H.'s rights under Section 504, the Americans with Disabilities Act (ADA) and N.J.A.C. 6A:14, specifically: 1) [d]enial of 504 Accommodations ... 2) Unlawful Disciplinary Action (October 3, 2025) ...; 3) [d]enial of equal access to [g]raduation testing ...; and 4) [p]attern of [r]etaliation and [n]oncompliance" (Emergent Relief certification0.

The Petition and Emergent Relief were filed on October 7, 2025, with the New Jersey Department of Education (Department of Education) Office of Special Education (OSE).

On October 7, 2025, OSE transmitted the Petition and emergent relief together, to the Office of Administrative Law (OAL), for a hearing. N.J.A.C. 6A:14-2.7(w), allows requests for a due process hearing with respect to issues concerning Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794a, to be transmitted to the OAL, without a resolution period.

The OAL scheduled the emergent relief for an in-person hearing on October 15, 2025, at 1:30pm, at 33 Washington Street, Newark, New Jersey.

On October 15, 2025, oral argument was heard at the OAL. Petitioner, and the District appeared. The record was closed on October 16, 2025, after receipt of Petitioner's "pdf" attachment to the Emergent Relief certification, and the District's submission of a copy of the OAL case that they included in its letter brief opposing the Request for Emergent Relief.

SUMMARY

Based upon the certification of Petitioner seeking Emergent Relief, the District's letter brief in opposition to the Emergent Relief and certifications and exhibits submitted therein, along with oral argument held in this matter, I **FIND** the following as **FACT** herein:

E.H. is a rising senior at Dwight Morrow High School (Dwight Morrow), having commenced his enrollment at Dwight Morrow in the 2022-2023 school year. E.H. is an unclassified student with accommodations pursuant to a 504 Plan. A referral for evaluation for Special Education and related services was made on February 19, 2025. An initial identification meeting was scheduled for March 11, 2025. Petitioner participated in that meeting and provided consent for the following evaluations the following day: a psychological evaluation; an educational evaluation; a social history; an FBA; and a psychiatric evaluation. The District attempted to complete these evaluations to then hold an eligibility meeting and IEP meeting, but the same did not occur due to E.H. resistance to the same. Ultimately, the District was only able to complete the social history assessment and the FBA.

The District held a 504 Eligibility Determination meeting on April 7, 2025 and developed a 504 Plan that contained a number of accommodations and supports pending the completion of evaluations and consultation with the Child Study Team. The same was not implemented because the District did not obtain Petitioner's consent.

E.H.'s disciplinary history at the District began shortly after transferring to the District at the start of his freshman year when he was reported for insubordination and being disrespectful toward staff. Since then, E.H. has dealt with a multitude of different disciplinary issues including, but not limited to, disrupting and cutting class, leaving school without permission, using profane language toward faculty, jeopardizing the safety of others or the order of the school, and improper use of electronics.

To date, E.H.'s high school disciplinary record includes 129 conduct referrals, about forty-one of which were issued in the 2024–2025 school term. For these reasons, the District has determined that due to E.H.'s ongoing behavioral challenges, he requires more intensive support than he is currently receiving.

E.H. was suspended by the District in late April 2025 for his behavior and then placed on home instruction pending psychiatric clearance. Thereafter, Petitioner filed a due process petition seeking, in part, an order compelling the District to allow E.H. back into the classroom. Petitioner's due process petition was denied but the Administrative Law Judge ruled that the District continue to offer E.H. home instruction, and that E.H. remain on home instruction pending an IEP meeting or until he is cleared to return to the classroom by an agreed-upon psychiatrist. (A.K. o/b/o E.H. v. Englewood City, Board of Education, OAL DKT. NO. EDS 09246-25).

On September 16, 2025, E.H. returned to school after Dr. Ashley K. Crumby, a psychiatrist, determined that E.H. was not a danger to himself or others. Based on the April 7, 2025 evaluations, the District determined E.H. to be eligible for a Section 504 plan and drafted a Section 504 Plan, effective September 15, 2025. (Certification of Jorge Osorio, Exhibit 2).

Upon his return to Dwight Morrow on September 16, 2025, E.H. was disciplined until October 3, 2025, due to school dress code violation. When E.H. returned to school on October 3, 2025, he was involved in an incident that occurred after classes had ended, where E.H. sought to retrieve his jacket from a classroom that was locked. School security personnel did not allow E.H. to go into the locked classroom, and he became visibly upset. The District Superintendent, Dr. Marnie Hazelton (Dr. Hazelton) heard the commotion and attempted to de-escalate the situation and explain to E.H. that staff were attempting to try to assist him in retrieving his jacket. E.H. became verbally aggressive and agitated toward Dr. Hazelton, the Superintendent informed E.H. that his behavior was unacceptable and that he needed to leave the premises immediately. E.H. refused to leave, stating that he needed his jacket.

The Head of Security, Barry Harris (Harris) along with additional administrators, arrived shortly thereafter. Harris escorted E.H. out of the building safely. Local police then arrived and took over the situation. No criminal charges were filed by the District or criminal conduct by E.H. determined by the local police department.

On October 3, 2025, a suspension letter was issued by Principal Jorge Osoria (Principal Osorio) and Vice Principal Carroll Milla-Sanchez (Vice Principal Milla-Sanchez) to E.H.'s parent/guardian. According to the letter, the duration of E.H.'s suspension would be determined at the next Englewood Public School District Board meeting.

October 6, 2025, the school guidance counselor emailed Petitioner to initiate the home instruction process. The school guidance counselor also communicated that he would arrange for someone to administer the NJGPA to E.H. at home. Petitioner did not respond to the guidance counselor's email. On October 8, 2025, the District's Child Study Team case manager, the assigned home instructor for E.H., made an unsuccessful attempt to contact Petitioner to begin E.H.'s home instruction. To date, the District has been unable to provide E.H. with home instruction or allow him to take the NJGPA test at home.

Petitioner does not agree to have the District provide E.H. with home instruction or have the District administer the NJGPA test at home, as Petitioner wants him back at

school, because she believes the District is in violation of E.H.'s 504 plan when they suspended him.

A manifestation determination meeting was held on October 7, 2025, regarding the October 3, 2025 incident and suspension. Attendees included Principal Ocasio, a Vice Principal, E.H.'s teacher, guidance counselor, Petitioner A.K., and E.H.'s older sister. The manifestation meeting determined that E.H.'s behavior was not a manifestation of his disability, and his suspension of October 3, 2025, would be indefinitely.

Petitioner does not believe that a manifestation determination meeting ever occurred on October 7, 2025, because when she appeared at the same, she voiced her objections to the participants in the manifestation participation meeting, and she and her daughter then left the meeting while it was in session.¹

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;

¹ Petitioner provided an audio recording of her attendance at the manifestation determination meeting of October 7, 2025, which was objected to by the District because 1) the same was not included with the Emergent Relief application and 2) had not been provided to the District prior to the oral argument on October 15, 2025. The District's objection to the admission of the audio recording was sustained and the same was not admitted in evidence.

- 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.

There is no dispute that E.H. has not received educational instruction since his suspension on October 3, 2025, and that the underlying matter involves the District's disciplinary action of October 3, 2025, and that E.H.'s behavior was not a manifestation of his disability, and his suspension of October 3, 2025, would be indefinitely. There is also no dispute that the underlying matter involves the determinations of interim alternate educational settings (home instruction and administration of NJGPA test at home), as Petitioner has refused the same.

Therefore, I **CONCLUDE** it has been established that Petitioner may seek Emergent Relief as the issues in this matter pertain to N.J.A.C. 6A:14-2.7(r)i, break in delivery of service, and N.J.A.C. 6A:14-2.7(r)ii issues involving disciplinary action, including manifestation determination, and N.J.A.C. 6A:14-2.7(r)iii.

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, Petitioner must meet all four prongs as set forth above. Crowe, 90 N.J. at 132–34. Petitioner seeks emergent relief as follows:

1. Immediate reinstatement of E.H. to school and “nullification of his suspension”;
2. Immediate restoration of access to New Jersey Graduation Proficiency Assessment (the NJGP”); and
3. Assurance that E.H.’s “disciplinary record will be corrected to remove this incident.”
4. Implementation monitoring by New Jersey Department of Education (NJDOE) or an independent compliance officer, and
5. A manifestation determination meeting, including E.H.’s guidance counselor and a parent prior to any further disciplinary decisions.

As to Petitioner’s request to have E.H.’s suspension rescinded and have him immediately reinstated, the proofs submitted herein do not support the four prongs in Crowe and N.J.A.C. 6A:3-1.6(b). Petitioner’s argues that the District cannot suspend E.H. because they have violated the provisions of his 504 Plan and a manifestation determination has not been made. As to the October 3, 2025 incident the District’s submissions reveal that the escalation in E.H.’s behavior due to not being allowed back in the school building were such that there was no time to follow the accommodation plans contained in the 504 Plan. A review of the 504 Plan reveals that the accommodation plans are related to conduct in the classroom. However, on October 3, 2025, school was not in session and E.H. returned to retrieve his jacket. When he was told he could not be in the building he reacted negatively, and the situation escalated to the District having to call the police department to keep the peace.

Petitioner, A.K. argues that the school security and school personal have a exhibit a “pattern of retaliation” toward E.H. and “noncompliance” with his 504 Plan. This

argument is rebutted by E.H.'s disciplinary record at the District; and as to a pattern of retaliation, the 504 Plan was made effective September 15, 2025, and E.H. had only been in school two days, September 16, 2025, and October 3, 2025, and E.H.'s conduct and resultant discipline were not inconsistent with the 504 Plan.

As to immediate reinstatement of E.H. to school, presumably so that he could attend classes and thus eliminate a break in services, the District has submitted proof that they have made several attempts to initiate home instruction, which Petitioner rebuffed. Similarly as to requesting that E.H. be reinstated so that he could attend and take his NJGPA test in October, the District has presented proof that they can accommodate E.H. and have him take the test at his home during his suspension, which Petitioner A.K. also rejected.

Regarding, Petitioner's request for a manifest determination meeting, the District has submitted proofs that said meeting occurred on October 7, 2025, and the decision was made that E.H.'s conduct and resultant suspension were not a manifestation of his liability. Petitioner's argument that no manifest determination meeting occurred because when she appeared on October 7, 2025, and objected to the participation of individuals at the meeting due to a "conflict of interest" is nonsensical, she left the meeting before it concluded, and she has not presented any proofs before this tribunal for a determination as to the fitness of the participants in the meeting.

As to the remaining requested relief, that the District remove the October 3, 2025 incident from E.H.'s school record and the request for monitoring by the NJDOE of the District as to the implementation of the E.H.'s 504 Plan, Petitioner has failed to demonstrate how this requested relief meets the standard for emergent relief under Crowe and N.J.A.C. 6A:3-1.6(b).

For the forgoing reasons, I **CONCLUDE** that Petitioner has failed to establish that E.W. will suffer irreparable harm as a result of the October 3, 2025 suspension; that they have a settled right underlying their claim; that they are likely to prevail on the merits of their underlying request for due process hearing, and that the balance of the equities favors petitioners. As to this last prong, the District argues that because of E.H.'s

disciplinary history related to his conduct, the District believes they are at risk of harm if E.H. is reinstated without the District providing him with the services and program to address his emotional, behavioral and educational needs, which A.K. has failed to cooperate in doing.

I **CONCLUDE** that having heard the arguments of Petitioner and the District, and considering all documents submitted herein, Petitioner has not established the four-prongs required for emergent relief under Crowe, and N.J.A.C. 6A:3-1.6(b), and the application for Emergent Relief is **DENIED**.

ORDER

IT IS ORDERED that having heard the arguments of Petitioner and the District, and considering all documents submitted, Petitioner's application for emergent relief is herein **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 17, 2025

DATE



JULIO C. MOREJON, ALJ

Date Received at Agency

October 17, 2025

Date E-Mailed to Parties:

October 17, 2025

JCM/lr