



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER GRANTING

EMERGENT RELIEF

OAL DKT. NO. EDS 19082-25

AGENCY DKT. NO. 2026-39975

**LINDENWOLD BOROUGH BOARD
OF EDUCATION,**

Petitioner,

v.

D.G. AND B.G. ON BEHALF OF L.G.,

Respondents.

Daniel Long, Esq., for petitioner (Wade, Long, Wood & Long, LLC, attorneys)

D.G. and B.G., respondents, pro se

Record Closed: November 13, 2025

Decided: November 14, 2025

BEFORE DEIRDRE HARTMAN-ZOHLMAN, ALJ:

STATEMENT OF THE CASE

L.G., a fifth-grade student, was suspended and began homebound instruction and underwent a psychiatric evaluation after thirty-six disciplinary infractions, including twelve Harassment, Intimidation, and Bullying (HIB) incidents. Must L.G. be returned to the school district pending out-of-district placement? No. The Lindenwold Borough Board of

Education (Board) has met its burden of proof under Crowe v. DeGioia, 90 N.J. 126 (1982).

PROCEDURAL HISTORY

On October 16, 2025, the Board suspended L.G. because of a HIB incident and placed him on home instruction pending a psychiatric evaluation and threat assessment.

On October 22, 2025, respondents filed an expedited due process petition seeking to return L.G. to school and revisions to his individualized education program and behavior intervention plan with the New Jersey Department of Education, Office of Special Education (OSEP).¹

On October 31, 2025, the Board received the psychiatric evaluation and threat assessment report that determined that L.G.'s conduct was not a manifestation of his disability and that recommended that L.G. not return to school pending examination of alternative out-of-district placement.

On November 5, 2025, the Board filed a request for emergency relief, seeking to have L.G. remain in homebound instruction pending out-of-district placement, with the OSEP, which transmitted the case to the Office of Administrative Law (OAL) under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, and the Special Education Program, N.J.A.C. 1:6A-1.1 to -18.4.

On November 13, 2025, I held oral argument and closed the record.

¹ The OSEP transmitted the case to the OAL on November 6, 2025. It was assigned to the undersigned on November 12, 2025.

FINDINGS OF FACT

Based on the documents the parties submitted in support of and in opposition to the motion for emergency relief, I **FIND** the following as **FACT** for purposes of this motion only:

L.G. is a ten-year-old, fifth-grade student. He is eligible for special education and related services under the classification category of Other Health Impaired. L.G. is diagnosed with attention-deficit/hyperactivity disorder and oppositional defiant disorder.

On October 16, 2025, the Board suspended L.G. because of a HIB incident and placed him on home instruction pending a psychiatric evaluation and threat assessment. Over approximately two years, L.G. has been involved in thirty-six disciplinary infractions, including twelve HIB incidents, and was suspended nine times. The incidents include making racially and ethnically inappropriate behaviors, statements, or actions toward other students, physical aggression, and “a persistent lack of adherence to and compliance with the code of conduct and basic expectations.” Examples of L.G.’s conduct include stealing, hitting, kicking, mocking, and pushing a student into traffic. “As a result of the repeated infractions, as well as the nature of the infractions, multiple students and staff have reported being fearful of L.G.”

On October 20, 2025, Dr. Joseph C. Hewitt, D.O. performed a psychiatric evaluation and threat assessment of L.G. and issued a report. Dr. Hewitt did not recommend that L.G. return to school. Dr. Hewitt found that it is reasonable to look at out-of-district placement and “therapeutic settings” for L.G. Moreover, Dr. Hewitt’s report states that “medication management alone or simply using school-based counseling” is sufficient for L.G.

The Board does not have the ability to provide the required supports to accommodate and protect L.G. and to protect the other students. L.G. is receiving educational services during his suspension, although initially there was a delay.

LEGAL ANALYSIS AND CONCLUSION

The standards for emergent relief are set forth in Crowe v. DeGioia, 90 N.J. 126, 132–34 (1982) and are codified at N.J.A.C. 6A:3-1.6(b). The petitioner bears the burden of proving:

1. that the petitioner will suffer irreparable harm if the requested relief is not granted;
2. the existence of a settled legal right underlying the petitioner's claim;
3. that the petitioner has a likelihood of prevailing on the merits of the underlying claim; and
4. that when the equities and the interests of the parties are balanced, the petitioner will suffer greater harm than the respondent.

The moving party, the Board, must satisfy all four prongs of this standard to establish an entitlement to emergent relief.

Irreparable Harm

In Crowe, the Supreme Court found that irreparable harm is that which “cannot be redressed adequately by monetary damages.” 90 N.J. at 133. Indeed, the purpose of emergent relief is to “prevent some threatening, irreparable mischief, which should be averted until opportunity is afforded for a full and deliberate investigation of the case.” Id. at 132 (quoting Thompson ex rel. Bd. of Chosen Freeholders v. Paterson, 9 N.J. Eq. 624, 625 (E. & A. 1854)). In this case, petitioner argues it will suffer irreparable harm if the requested relief is not granted because the presence of L.G. in the classroom creates a threat to the learning and well-being of the other students. In support of its assertion, the Board has enumerated thirty-six incidents of conduct by L.G. that range from disruptive conduct to physical harm of others. Therefore, I **CONCLUDE** that petitioner has proved irreparable harm.

The Legal Right is Settled, and the Likelihood of Prevailing on the Merits

The second consideration is whether the petitioner has shown its claim to be well-settled. Petitioners are entitled to seek an order changing 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). Here, the Board has demonstrated a settled legal right supporting its request to place L.G. in homebound instruction pending out-of-district placement.

Under the Individuals with Disabilities Education Act, the State of New Jersey must have a policy that assures all children with disabilities the right to a free appropriate public education (FAPE), 20 U.S.C. § 1412, which includes special education and related services. 20 U.S.C. § 1401(9); N.J.A.C. 6A:14-1.1 et seq. The responsibility to provide FAPE rests with the local public school district. N.J.A.C. 6A:14-1.1(d). The local district satisfies the requirement that a child with disabilities receive FAPE by providing personalized instruction with sufficient support services to permit that child to benefit educationally from instruction. Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley, 458 U.S. 176, 203 (1982). The law describes a continuum of placement options, ranging from mainstreaming in a regular public school as least restrictive to enrollment in a non-approved residential private school as most restrictive. 34 C.F.R. § 300.115 (2025); N.J.A.C. 6A:14-4.3. Here, the Board has acknowledged that it does not have the ability to provide the required support and services in-district to accommodate and protect L.G. and to protect the other students. Therefore, I **CONCLUDE** that the law is well-settled and that the Board has met its burden of a reasonable probability of success on the merits of its claim of homebound instruction pending out-of-district placement as warranted.

Balance of Equities

Lastly, in consideration of the balance of interests between the parties, the Board again points to the threat of disruption to the learning of the students in the classroom as well as the threat of physical harm by L.G. to other students. The respondents assert that the homebound instruction is not academically sufficient and provides no social or

emotional support for L.G. Here, the Board has listed numerous incidents involving L.G. that raise serious concerns regarding school safety. The Board has an obligation to take seriously L.G.'s conduct and to ensure a safe educational environment for him and other students. It is unfair and a disservice to the other students for them to fear that their safety may be compromised while in school. Moreover, the Board acknowledges it does not have the services to address the needs of L.G.

Certainly, there are challenges posed to L.G. by being placed on home instruction and hardship for the parents in such circumstances. While L.G. may miss out on peer interaction, he will continue to receive educational instruction, and there is no showing that homebound instruction pending out-of-district placement will result in a denial of FAPE. When balancing the safety and welfare of the staff and other students against the hardship on L.G., I **CONCLUDE** that the equities weigh in favor of the Board.

For the reasons set forth above, I **CONCLUDE** that the Board has met the standards for emergency relief.

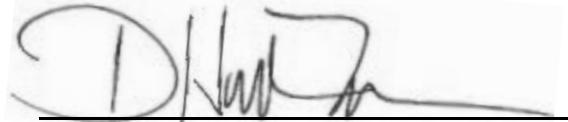
ORDER

I hereby **ORDER** that the Board's request for emergency relief seeking an order for L.G. to remain in homebound instruction pending out-of-district placement is **GRANTED**.

This order on application for emergency relief shall remain 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. The parties will be notified of the hearing dates.

November 14, 2025

DATE



DEIRDRE HARTMAN-ZOHLMAN, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

DHZ/cb

APPENDIX

Exhibits

Petitioner:

P-1 Petitioner's petition and brief with supporting documents

Respondents:

R-1 Respondent's opposition papers with supporting documents