



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER GRANTING

EMERGENT RELIEF

OAL DKT. NO. EDS 19507-25

AGENCY DKT. NO. 2026-40052

DEPTFORD TOWNSHIP BOARD OF EDUCATION,

Petitioner,

v.

G.G. AND P.R. ON BEHALF OF L.R.,

Respondents.

John Carlton, Esq., for petitioner (Marmero Law, LLC, attorneys)

G.G. and P.R., respondents, pro se

BEFORE **MICHAEL R. STANZIONE**, ALJ:

STATEMENT OF THE CASE

L.R., a seventh-grade student residing in the Deptford Township School District, served an eight-day out-of-school suspension, began homebound instruction, and underwent a psychiatric evaluation after multiple disciplinary infractions, including but not limited to sexual harassment, harassment, defiance, verbal abuse, and physical assault incidents. Must L.R. be returned to the school district pending the outcome of the due process petition? No. Deptford Township Board of Education (Board) has met its burden of proof under Crowe v. DeGioia, 90 N.J. 126 (1982).

PROCEDURAL HISTORY

On November 21, 2025, petitioner filed an emergency relief petition seeking a temporary order for a change in placement pending the resolution of due process.

On December 3, 2025, I held the hearing.

FINDINGS OF FACT

Based on the testimony and 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:

1. L.R. is a seventh-grade student.
2. He is diagnosed with autism due to a pervasive developmental disability that impacts verbal and non-verbal communication and social interaction.
3. Petitioner provides L.R. with special education programs and related services, which include special education classes for students with multiple disabilities, a personal aide, speech-language therapy, occupational therapy, behavioral intervention, counseling services, and special transportation.
4. On October 1, 2025, L.R. received discipline for inappropriate and foul language and disruptive behavior on the school bus and in the classroom. P-1 at Exhibit B.
5. On October 3, 2025, L.R. received discipline in the form of a partial day of restricted study for inappropriate behavior/disrespect towards staff and disruptive behavior on the school bus. P-1 at Exhibit B.

6. On October 9, 2025, L.R. received discipline for inappropriate and foul language, inappropriate behavior/disrespect towards staff, and disruptive behavior in the classroom. P-1 at Exhibit B.
7. On October 15, 2025, L.R. received discipline in the form of a restorative conference for inappropriate and foul language and extreme disrespect towards students. P-1 at Exhibit B.
8. On October 20, 2025, L.R. received discipline in the form of a conference, partial day of restricted study, loss of good student standing for inappropriate and foul language, inappropriate behavior/disrespect towards students, extreme disrespect towards students and staff, and threatening a staff member. P-1 at Exhibit B.
9. On October 22, 2025, L.R. received discipline in the form of a three-day out-of-school suspension for inappropriate behavior/disrespect towards staff, disruptive behavior on the school bus and classroom, and obscene/vulgar behavior. P-1 at Exhibit B.
10. On October 27, 2025, L.R. received discipline in the form of a restorative conference for inappropriate behavior/disrespect towards a student. P-1 at Exhibit B.
11. On October 28, 2025, L.R. received discipline in the form a three-day out-of-school suspension for extreme disrespect towards students and physical assault against a student. P-1 at Exhibit B.
12. The incidents noted above increased in severity, and many behavior issues have been sexual in nature.
13. Petitioner imposed discipline against L.R. in the form of holding conferences, restricted study during school hours, loss of good student standing, and out-of-school suspension for a total of eight days.

14. On or about November 5, 2025, L.R. was involved in another incident against an adult female that occurred off school grounds. L.R. assaulted an adult female and attempted to remove her pants. Simple assault and harassment charges were filed against L.R. See Deptford Police Department Incident Report attached as P-1 at Exhibit C.

15. On November 12, 2025, petitioner notified respondents that L.R. would be placed on home instruction for the immediate future due to the serious nature of the recent allegation as well as the prior incidents noted above.

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.R. 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 numerous incidents of escalating conduct by L.R. 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. Petitioner is 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.R. 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.R. 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.R. to other students. The respondents assert that the homebound instruction is not academically sufficient and provides no social or emotional support for L.R. Here, the Board has listed numerous incidents involving L.R. that raise serious concerns regarding school safety. The Board has an obligation to take seriously L.R.'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.R.

Certainly, there are challenges posed to L.R. by being placed on home instruction and hardship for the parents in such circumstances. While L.R. 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.R., 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.R. 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.

December 4, 2025
DATE


MICHAEL R. STANZIONE, ALJ

Date Received at Agency: December 4, 2025

Date Mailed to Parties: _____

APPENDIX

Exhibits

Petitioner:

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

Respondents:

None