State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER ON EMERGENT RELIEF
OAL DKT. NO. EDS 18936-25
AGENCY DKT. NO. 2026-39965

S.R. AND J.R. ON BEHALF OF A.R.,
Petitioners,
v.
PITMAN BORO BOARD OF EDUCATION,
Respondent.

S.R. and J.R. on behalf of A.R., pro se, petitioners

Daniel H. Long, Esquire, for respondent (Wade, Long, Wood & Long, LLC, attorneys)

BEFORE **ELAINE B. FRICK,** ALJ:

STATEMENT OF THE CASE

Petitioner parents, S.R. and J.R., seek the emergent relief of interim placement of their child, A.R., currently receiving home instruction, into the First Children Services school, pending the outcome of their underlying due process petition, which seeks out-of-district placement. Respondent, Pitman Boro Board of Education (the District), agrees that out-of-district placement is appropriate but objects to placement at First Children

Services at this time, which is an unapproved private school, and recommends a different approved school placement. The District contends that petitioners have not demonstrated the legal requirements to have their emergent relief request of placement at the unapproved school granted during the pendency of the case. The District contends that the relief sought in the emergent application may only be considered after a full hearing. Petitioners' request for emergent relief must be denied as they have not demonstrated by clear and convincing evidence all conditions required for the emergent relief of interim placement of A.R. at First Children Services school.

PROCEDURAL HISTORY

On November 3, 2025, petitioner parents submitted a mediation only request to the New Jersey Department of Education, Office of Special Education (DOE), which was converted by the DOE to a due process petition on November 5, 2025. After expiration of the thirty-day resolution period, the case was transmitted by the DOE to the Office of Administrative Law (OAL) where it was filed on December 3, 2025, to be heard as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. A two-page document entitled "Due Process-Amendment-Description of the Problem" was submitted thereafter by the parents as an amendment to their due process petition.

The case was scheduled for an initial telephonic hearing on December 16, 2025, and rescheduled several times after the petitioners' designated advocate and the parents failed to appear. The parents appeared at the telephonic hearing conference on January 16, 2026, and advised that the designated advocate named in their due process petition, Barbara Hance, was not their advocate for this case but rather is a therapist for A.R., whom they refer to as the student's advocate. The parents confirmed they were proceeding pro se.

The parties agreed upon an extension of scheduling and agreed upon future proceeding dates as they intended to continue settlement discussions. A telephonic conference is pending on March 18, 2026, at 2:00 p.m., and the hearing date is April 21, 2026, at 9:30 a.m., if the parties have not reported that they have settled the case.

On February 19, 2026, the parents submitted a Request for Emergent Relief, seeking interim placement of their student at a specific location. Oral argument was scheduled for February 26, 2026, and the parties were directed to submit documentation in advance. The submissions were done.

Oral argument was heard in person on February 26, 2026, with both parents and the student appearing. The parents confirmed that Barbara Hance could observe the proceeding. Attorney Daniel Long appeared with the Director of Special Services, Chris Morris, and the Superintendent of the School District, Dr. Robert Preston. Additional documentation was entered into evidence at the oral argument proceeding without objection.

FACTUAL DISCUSSION AND FINDINGS

Based upon the documentary submissions of the parties, the documents entered into evidence, and oral argument presented by the parties, I **FIND** as **FACTS** the following:

A.R. is a fourteen-year-old resident in the Pitman School District. During the 2024–2025 school year, the parents requested that the District complete evaluations of A.R. Evaluations were completed in August 2025. On September 11, 2025, the Child Study Team conducted an Individualized Educational Program (IEP) meeting. A proposed IEP for A.R. for her 9th grade 2025–2026 academic school year was presented to the parents at the meeting. They disagreed with the proposed placement and did not sign the IEP.

A.R. is diagnosed with autism spectrum disorder and generalized anxiety disorder. (P-1; R-1.) The parties agree that her classification of autism in the proposed IEP is correct. A.R.'s mother, J.R., described A.R. as having extreme anxiety, rendering her adverse to attending school. According to a letter authored by Alexandra Guzman, PMHNP-BC from Inspira Health, who provides psychiatric care for A.R. in collaboration with a therapist, A.R.'s conditions "contribute to significant challenges with sensory processing, anxiety management, and emotional regulation in the school setting." (P-1; R-1.) This causes A.R. to "experience acute episodes of heightened anxiety and freezing"

when she becomes overwhelmed, and during these episodes, she is at increased risk for self-harm. Guzman further stated in the letter that such episodes are "more likely to occur in large, highly stimulating classroom environments or during periods of increased academic or social stress." (P-1; R-1.) Guzman recommended placement in a smaller classroom setting and access to an in-school behavioral health therapist or licensed mental health professional. The recommendations were made to promote A.R.'s academic success, emotional stability, and overall safety in school. Guzman concluded that she recommends "integrating these supports into the student's educational and behavioral planning, but the decision is ultimately up to the school." (P-1 and R-1.)

J.R. indicated that she presented Guzman's letter to the school in November 2025. The letter is dated November 19, 2025. (P-1.) J.R. communicated with the professional caregiver in advance of this emergent request. She was advised that Guzman's recommendation remained unchanged. The same letter was issued on behalf of A.R. by Guzman with the date of February 11, 2026. (R-1.)

A.R. began attending school at Pitman in the fall of 2025 but missed seventy days of school, as reported by her mother. A.R. had partial hospitalization from March 2025 through June 2025, and again from October 2025 through November 2025. J.R. confirmed that A.R. engaged in self-harm at school by cutting herself and has had suicidal ideations, requiring emergency medical treatment. The District arranged partial transition for A.R. to return to attend class for periods one through four to minimize classroom time. An aide was made available in each class. Her last attendance at school was December 23, 2025. Her parents indicated that A.R.'s anxiety and school adverse condition worsened over the school holiday break. Homebound instruction was arranged by the school for A.R., which began in January 2026.

The District confirmed it does agree that out-of-district placement for A.R. is appropriate. The District explored potential placements the parents wanted to pursue for A.R. One program requested by the parents at Hampton Academy reviewed A.R.'s status and accepted her into its program. However, the parents declined that placement. Another program the parents wished to explore apparently did not have availability for enrollment.

The parents explored the First Children Services school in Cherry Hill as an option, looking into the Transitions Program. (P-2.) J.R. indicated that the program was recommended by many different people to her, such as individuals involved in A.R.'s first partial hospitalization, her therapist, a Family Support Organization representative, and even the homebound instructor.

J.R. communicated via email with an individual identified as the Vice President of Business Development for First Children Services. In an email on May 23, 2025, from the representative to J.R., she stated that the "Transitions program is small group, center based instruction for students in Middle school through High School." (P-3.) The representative asserted that by providing instructional services to students in group and community style settings, they can "address and tackle school avoidance, school refusal, school phobia, or other concerns that prevent students from attending school regularly." (P-3.) In an email from the same representative, now identified as Director of Business Development for First Children Services to J.R. on November 3, 2025, the representative stated "Our program is not an approved [private school for students with disabilities] APSSD. We are an approved Clinic and Agency program through the Department of Education. We are currently in candidacy for Middle States." (P-3.)

J.R. believes the First Children Services school is best for A.R. because it is a small facility and would be a good interim bridge for A.R. back into the school setting. J.R. confirmed that A.R.'s psychiatric care provider did not specifically recommend First Children Services, and she conceded that she did not have a professional recommendation for placement at that school. Even though First Children Services is not an APSSD school, J.R. asserts that such status should not limit placing A.R. there since it would be the least restrictive environment for A.R. rather than being isolated at home without any peers. She asserted that irreparable harm is occurring, which cannot be reversed by compensatory education since A.R. is turning into a "shell" of herself without friends and peer interaction. Homebound instruction is not working because A.R. is experiencing anxiety in the homebound setting. J.R. asserts that this delay in placement into a school has caused greater anxiety to A.R.

The District offered consideration of the Y.A.L.E. school, Erlton Campus or in Cherry Hill, or any Y.A.L.E. location that could address A.R.'s academic and therapeutic needs. J.R. believes all of the Y.A.L.E. schools have student populations that are too large for A.R.'s needs. She estimated that the Y.A.L.E. Cherry Hill school has approximately one hundred students enrolled for kindergarten through twelfth grade. The District contends that the class sizes are small and the therapeutic needs of A.R. can be met at Y.A.L.E.

The parents now seek emergent relief to prevent asserted irreparable harm to A.R. Petitioner parents contend that the District should have A.R. placed at First Children Services, rather than the homebound instruction that was agreed upon, pending confirmation of an appropriate out-of-district placement or placement determined after the scheduled hearing.

LEGAL ANALYSIS AND CONCLUSIONS

The Federal Individuals with Disabilities Education Act (IDEA) was enacted to improve education for disabled students. 20 U.S.C. § 1400, et seq. One of the purposes of IDEA is "to ensure that all children with disabilities have available to them a free appropriate public education [FAPE] 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. § 1400(d)(1)(A). FAPE is to be provided in the least restrictive environment. N.J.A.C. 6A:14-4.2. Removal of a disabled child from the regular educational environment may occur only when the nature or severity of the disability prevents achievement of a satisfactory education for the student in a regular, general education class with supplementary aids and services. 20 U.S.C. §1412(a)(5)(A). The responsibility to deliver appropriate services rests with the local public school district. N.J.A.C. 6A:14-1.1(d).

If a due process petition regarding a disputed issue of FAPE has been filed seeking a hearing, and the parent(s) or guardian(s) or the school district wishes to apply for emergency relief, they may do so. N.J.A.C. 1:6A-12.1(a). An application for emergency

relief must set forth in writing the specific relief sought and the specific circumstances the applicant believes justifies such relief. Ibid.

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.
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> [N.J.A.C. 6A:14-2.7(r)(1).]

Here, the petitioner parents have asserted their emergent relief issue as an issue concerning placement of their child, A.R., into a private school, pending the outcome of the due process proceeding. N.J.A.C. 6A:14-2.7(r)(1)(iii). Petitioners want immediate placement of A.R. at First Children Services school in Cherry Hill as interim or bridge placement of A.R. into that school pending the final determination of the underlying petition.

There is no last agreed upon placement contained in an IEP. The proposed IEP at issue in the underlying due process petition is the initial IEP proposed for A.R. The student did attend some days of school in the fall of 2025 at Pitman. During the midst of the pending petition, the student was placed on homebound instruction as agreed between the parties to address A.R.'s school aversion anxiety. The parties have collaborated to determine an appropriate out-of-district placement. The petitioner parents have disagreed with the proposals or options offered thus far. The District contends that the issue presented here as an emergent relief request is the ultimate issue to be determined at the hearing and not appropriately asserted as an emergent request. Moreover, the District asserts that petitioners have not demonstrated, by clear and

convincing evidence, that their emergent claim satisfies the mandated conditions under the law.

The New Jersey administrative code has codified the four well-settled conditions to be met by a party seeking emergent relief, as originally set forth in Crowe v. DiGioia, 90 N.J. 126 (1982). Emergent relief may be granted if the judge determines from the proofs that:

> i. The petitioner will suffer irreparable harm if the requested relief is not granted;
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> ii. The legal right underlying the petitioner's claim is settled;
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> iii. The petitioner has a likelihood of prevailing on the merits of the underlying claim; and
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> iv. 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.
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> [N.J.A.C. 6A:14-2.7(s)(1).

The party seeking emergent relief must demonstrate each of the four factors by clear and convincing evidence to prevail on their request. Brown v. City of Paterson, 424 N.J. Super. 176, 183 (App. Div. 2012); McKenzie v. Corzine, 396 N.J. Super. 405, 414 (App. Div. 2007).

Regarding the first factor, irreparable harm has been described as "substantial injury to a material degree coupled with the inadequacy of money damages." Judice's Sunshine Pontiac, Inc. v. General Motors Corp., 418 F. Supp. 1212, 1218 (D.N.J. 1976), citing Tully v. Mott Supermarkets, Inc., 337 F. Supp. 834, 850 (D.N.J. 1972). Petitioners, as the party seeking emergent relief, must demonstrate irreparable harm, and not just the risk of such harm. Continental Group, Inc. v. Amoco Chemicals Corp., 614 F.2d 351, 359 (3d Cir. 1980). Emergent relief cannot be granted "merely to allay the fears and apprehensions or to soothe the anxieties of the parties." Ibid.

Petitioners contend that irreparable harm is occurring to A.R. because her disability-related anxiety and school aversion have escalated over the past two years, causing repeated absences, removal from instruction, and academic regression. She has engaged in self-injurious behavior, requiring emergency room visits, and suicidal ideation. She has withdrawn from her peers, extracurricular activities, and other social engagements. Petitioners argued in their written submission that A.R. experiences sleep disruption and loss of concentration. She displays severe anxiety and emotional dysregulation preventing meaningful participation in homebound instruction, which is isolated and unsafe to her. Petitioners assert that educational and psychological harm is ongoing and cannot be remedied "retroactively." They further contend that homebound instruction has caused A.R. to become a "shell" of herself, isolated without peer interaction or friends.

The District confirms that out-of-district placement is most appropriate, and it has been working to find a placement for the student. Petitioners acknowledged that they have declined the offered placements. The District candidly noted that homebound instruction "is not working," and it wants to get A.R. placed in a school program, but the District cannot be forced to ignore the law requiring accredited and approved school placements. The ultimate issue as to where the placement is to occur needs to be hashed out through the hearing process, not on an emergent application. The District contends that without minimizing the severity of A.R.'s conditions, any asserted academic harm and mental health concerns leading up to the placement can be remedied through compensatory education.

A.R.'s diagnoses are serious. The parents contend that irreparable harm is now occurring to A.R. since she has been on homebound instruction. The irreparable harm asserted by the parents is not supported by any professional opinion. The specific emergent relief requested is not supported by any professional opinion. There is no evidence that such placement is necessary to prevent irreparable harm to A.R. When J.R. sought confirmation from A.R.'s psychiatric provider regarding A.R.'s condition, the same letter the professional issued in November 2025 was reissued in February 2026, since there had been no change. The recommendations made by the psychiatric provider regarding A.R.'s education are for a small classroom size and access to an in-school

behavioral health therapist or licensed mental health provider. There is no evidential support or proof that homebound instruction is causing irreparable harm.

Of greatest concern is A.R.'s self-injurious behavior and suicidal ideations. If enrolled in a school without appropriate supervision, that is when A.R. is at greatest risk for such self-injurious behavior, as per A.R.'s own psychiatric care provider. If she is at home at this time, the parents are best able to observe A.R., note when she is having heightened anxiety and any tendency to cause self-injury, and can intervene to get appropriate care, as they have done in the past. Thus, continuing homebound instruction at this time, while the parties continue to seek an appropriate placement, has not been demonstrated to cause irreparable harm that cannot be remedied through compensatory services and education. I **CONCLUDE** that irreparable harm has not been demonstrated by clear and convincing evidence, as required for this emergent application for relief.

All four prongs of the Crowe factors must be demonstrated for emergent relief. Even though irreparable harm was not demonstrated, the other prongs are being considered here for completeness.

Petitioners must demonstrate that their claim rests on settled law and has the likelihood of success on the merits. Their underlying due process claim is for out-of-district placement. The District has candidly and repeatedly confirmed it agrees that out-of-district placement is appropriate. The parties confirmed during oral argument that they have explored placements, including schools the parents proposed but ultimately declined, as a placement. The issue now has evolved into where the placement will occur.

It is recognized that homebound instruction is implemented only after "all other less restrictive program options have been considered and determined inappropriate." N.J.A.C. 6A:14-4.8(a). The District is not seeking to keep A.R. on homebound instruction and never intended that to be the placement. Under the evolving circumstances presented, homebound instruction was implemented while all potential placements are properly considered. The petitioners will be "successful" for their request for out-of-district placement, but the likelihood of success for the specific placement at First Children

Services is unlikely at this posture. The school is not an APSSD school. "School-age students with disabilities may be placed in accredited nonpublic schools that are not specifically approved for the education of students with disabilities." N.J.A.C. 6A:14-6.5(a). The District asserts that this regulation permits placement of a student in an accredited nonpublic school, not specifically approved for students with disabilities, only under limited circumstances and only if detailed certification and accreditation requirements are met. If the District proffers placement at an APSSD school and demonstrates such school will comply with IDEA and provide FAPE, the District is more likely to succeed on the merits. Thus, I **CONCLUDE** that the likelihood of success on the merits is balanced as likely for the out-of-district placement being granted, but unlikely for petitioners to succeed with the student being placed at the non APSSD school if the District proffers placement at other out-of-district schools that are approved and accredited and demonstrate that they can provide FAPE for A.R.'s specific classification and needs.

The petitioners must demonstrate that the legal right underlying their claim is settled. The emergent application process affords a method for petitioners to present their issue regarding A.R.'s placement pending the due process hearing. If they do not demonstrate all conditions for emergent relief to be granted, it does not leave them without an adequate remedy. The remedy is to have the ultimate issue of placement vetted through a due process hearing, which is scheduled. To obtain an order from an administrative law judge for the specific placement sought by petitioners, it may only be ordered "as a result of a due process hearing." N.J.A.C. 6A:14-6.5. I thus **CONCLUDE** that there is an adequate remedy at law under the circumstances presented here, and the ultimate issue to be determined by a full hearing cannot be accomplished during an emergent application proceeding.

The final condition to be satisfied for emergent relief is the balancing of hardships. Petitioners contend that the continued delay in placing A.R. in a school program presents the risk that further psychological deterioration will occur, there may be self-harm, and A.R. will lose access to her education. These are hardships that have been addressed through the irreparable harm analysis. They are certainly hardships to consider that A.R.

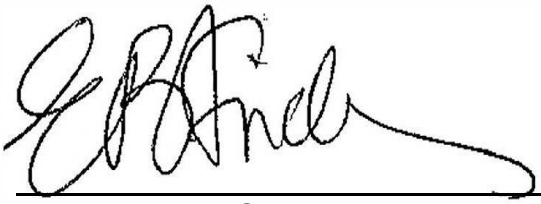
and her parents are faced with as they await placement. The parents' frustration and concern for their perception of "delays" over two years is appreciated.

The District contends that if the emergent relief is granted, it will suffer hardship by being forced to circumvent the statutory scheme governing special education placement. It will be implementing a placement at a location that is non-accredited without following the process to vet accredited least restrictive environment settings. The District asserts this could create procedural deficiencies that could later be deemed a denial of FAPE by the District. Considering these arguments, both sides will suffer hardship whether immediate placement is made or not for A.R. at First Children Services. The parents have refused alternate placements that have been recommended thus far. The District cannot be compelled on this emergent application to place the student as demanded by petitioners at this time. I **CONCLUDE** that the parties' asserted hardships are in equipoise given the current circumstances and respective stances taken by the parties. The parents' concerns for the well-being of the student are appreciated, but the District must comply with federal and state regulations to secure an appropriate placement and programming for A.R. to provide her FAPE.

Based upon the above conclusions that petitioners have not demonstrated all requirements to be granted emergent relief, I must **CONCLUDE** that petitioners' emergent relief application for immediate placement of A.R. at the First Children Services school is denied.

ORDER

It is **ORDERED** that the petitioner parents' emergent relief request for the District to immediately place the student at the First Children Services school is denied.



February 27, 2026
DATE

ELAINE B. FRICK, ALJ

Date Received at Agency

Date Mailed to Parties:

EBF/dc/gd

APPENDIX OF SUBMISSIONS

Request for Emergent Relief submitted by petitioners on February 19, 2026

IEP proposed from September 11, 2025, meeting, received on February 24, 2026

Letter brief opposition to the emergent relief request on behalf of the school district, with Certification of Chris Morris, Director of Special Services for the District, received February 24, 2026

At the oral argument proceeding on February 26, 2026:

Petitioners' exhibits:

P-1 November 19, 2025, letter from Alexandra Guzman, PMHNP-BC, Inspira Health

P-2 First Children Services website print out of pages entitled "Welcome to our Transitions Program!"

P-3 Email from Caitilin Summers, Director of Business Development, First Children Services, to J.R., May 23, 2025, and Email from Summers to J.R., November 3, 2025

Respondent's exhibits:

R-1 February 11, 2026, letter from Alexandra Guzman, PMHNP-BC, Inspira Health (confirmed identical letter as P-1, different date)