



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**ORDER**

**DENYING EMERGENCY RELIEF**

OAL DKT. NO. EDS 06784-26

AGENCY DKT. NO. 2026-40876

**M.M. ON BEHALF OF T.P.,**

Petitioner,

v.

**RANDOLPH TOWNSHIP BOARD**

**OF EDUCATION,**

Respondent.

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**M.M.**, pro se

**Robin S. Ballard**, Esq., for respondent (Schenck Price, Smith & King, LLP,  
attorneys)

BEFORE **JOAN M. BURKE**, ALJ:

**STATEMENT OF THE CASE**

M.M. on behalf T.P. (petitioner), brings an action for emergent relief against Randolph Township Regional Board of Education (respondent, District), seeking a temporary Order for home instruction pending the resolution of the underlying due process matter.

### **PROCEDURAL HISTORY**

Petitioner filed a request for a due process hearing on April 27, 2026. On April 29, 2026, petitioner filed for emergency relief, and the Office of Special Education (OSE) transmitted the matter to the Office of Administrative Law (OAL) as a contested case. The underlying due process is to remain at the OSE until the end of the thirty-day resolution period.

Oral argument was heard on May 13, 2026. Petitioner's request for emergent relief with Certification in Lieu of Affidavit or Notarized Statement of Petitioner Seeking Emergent Relief were submitted and considered for this proceeding along with numerous documents submitted by petitioner. A letter brief on behalf of the District, dated May 12, 2026, was also submitted and considered.

### **FACTUAL DISCUSSION AND FINDINGS**

Based upon the submissions of the parties, and the arguments presented on May 13, 2026, I **FIND** the following as **FACT**:

1. T.P. is currently twelve years old and is a student in seventh grade at Randolph Middle School (Randolph).
2. T.P. is not classified as eligible for special education and related services; he is eligible for reasonable accommodations through Section 504. T.P. is diagnosed with colitis, amplified musculoskeletal pain syndrome, and hypermobility.
3. T.P.'s 504 accommodations excuse him from physically demanding activities in gym class and give him access to the school nurse and restroom; extended time for assessments; extended due dates for assignments; frequent breaks; and extended time to complete standardized tests.

4. T.P.'s 504 Plan also allows Tier 2 interventions in the form of small group academic skills instruction for math and English language arts.
5. T.P. has been chronically absent from school over the past four years. (Certification of Walter Curioni.) In "the 2022-2023 school year, T.P. was absent for 96 days. During the 2023-2024 school year, he missed 53 days. During the 2024-2025 school year, T.P. was absent for 116.5 days. In the 2025-2026 school year to date, T.P. has been absent 43 times and tardy 33 times." (Ibid.)
6. In January 2026 the Child Study Team for the District determined that "evaluation of T.P. was not warranted." (Ibid.)
7. On May 8, 2026, petitioner submitted an unsigned note from Dr. Jimmy Tawadros, which stated that T.P. should receive home instruction for the rest of the school year. However, it failed to state the medical condition or the symptoms that T.P. was experiencing.
8. Dr. Marisa Ciufalo, the District's physician, contacted Dr. Tawadros to understand or obtain more information. She was unable to speak with Dr. Tawadros but spoke with Dr. Jadhav, the supervising physician. Dr. Ciufalo learned that Dr. Tawadros is a resident who had not spoken with his supervising attending physician regarding the matter.
9. Dr. Ciufalo informed Dr. Jadhav that the letter did not sufficiently support Dr. Tawadros' recommendation for home instruction.

### **ARGUMENTS OF THE PARTIES**

Petitioner argues that T.P. has medical challenges. He has had many procedures. He has chronic migraines; a chronic cough; and a history of amplified musculoskeletal pain syndrome, which causes pain to his body all the time. Petitioner argues that she would rather have T.P. at home for the rest of the school year than have him return to the

school. Petitioner said T.P. would be harmed if he continues to go to the school. She asks that he be given home instruction on his core subjects. Petitioner submitted numerous documents regarding T.P.'s medical history.<sup>1</sup>

Respondent argues that there is no legal basis for the relief petitioner seeks—temporary home instruction. Respondent argues that petitioner has never provided the District with medical documentation “indicating that T.P.’s chronic absences are due to a medical inability to attend school.” (Respondent’s Brief at 3.) Respondent argues that the letter submitted to the District from Dr. Tawadros of Atlantic Health was reviewed by the District’s physician, who opined that it did not support a request for T.P. to be provided with medically based home instruction.

Respondent argues that petitioner caused the significant interruption of T.P.’s educational services by her refusal to send him to school. (Id. at 5.) T.P. has had educational services available to him, including support for his documented medical conditions through his 504 Plan. Respondent argues that none of the “copious medical documentation petitioner has provided to the District supports the emergent relief request that T.P. requires home instruction (i.e., that T.P. is medically unable to attend school.)” (Respondent’s Brief at 6.) Respondent argues that there is “no substantial risk of physical injury or other irreparable harm that might occur if T.P. is not placed on home instruction . . . . Her position is purely speculative and does not meet the requirement of irreparable harm.”

Respondent further argues that petitioner fails to meet the requirements of prongs two and three in that petitioner’s claim is not well-settled, nor can she demonstrate a likelihood of success on the merits. T.P. does not have a well-settled right to home instruction because he does not meet any criteria to be educated through home instruction. Students are educated through home instruction for one of three reasons: the student is serving a suspension from school for a disciplinary infraction for five days or more; the student is awaiting placement in an alternative educational setting required

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<sup>1</sup> Petitioner submitted a doctor’s note on May 13, 2026. This was opposed by the District Counsel and was not accepted. Petitioner also submitted documentation on May 14, 2026, after the record was closed in the emergent proceeding on May 13, 2026. These documents were not accepted.

by law; or the student has a medical condition that temporarily prevents him from attending school. Respondent also argues that if petitioner were to be granted relief in this matter harm would come to the District. Respondent further posits that if emergent relief were granted “to allow Petitioner to change T.P.’s placement on an emergent basis to home instruction pending the outcome of the due process hearing when he does not meet the legal requirements to be provided with same, without a plenary hearing to establish a need for him to be educated in such a restrictive setting it would set a dangerous precedent.” (See Respondent’s Brief at 11.)

### **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.

In her Certification in Lieu of Affidavit or Notarized Statement of Petitioner Seeking Emergent Relief, petitioner indicated that she believes she is entitled to emergent relief on issues concerning placement pending the outcome of due process proceedings (iii).

Therefore, I **CONCLUDE** that petitioner has established that the issue in this matter concerns placement pending proceedings.

Petitioner is entitled to emergent relief under the traditional equitable standards set forth in Crowe v. DeGioia, 90 N.J. 126 (1982), and codified at N.J.A.C. 6A:3-1.6. The petitioner bears the burden of proving:

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.

[N.J.A.C. 6A:3-1.6(b).]

Petitioner must establish all the above requirements in order to warrant relief in their favor and must prove each of these Crowe elements "clearly and convincingly." Waste Mgmt. of N.J. v. Union Cnty. Utils. Auth., 399 N.J. Super. 508, 520 (App. Div. 2008); D.I. and S.I. ex rel. T.I. v. Monroe Twp. Bd. of Educ., 2017 N.J. AGEN LEXIS 814 at \*7 (October 25, 2017).

With regard to the first required prong, "irreparable harm" is defined as the type of harm "that cannot be redressed adequately by monetary damages." Crowe, 90 N.J. at 133. In addition, the irreparable harm standard contemplates that the harm be both substantial and immediate. Subcarrier Commc'ns v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997). However, pecuniary damages may sometimes be inadequate because of the nature of the injury, or the right affected. Crowe, 90 N.J. at 133. For example, in Crowe

the Court determined neither an unwarranted eviction nor reduction to poverty could be compensated adequately by monetary damages awarded after a distant hearing. Ibid. The threshold standard for irreparable harm in the area of education is showing that once something is lost, it cannot be regained. M.L. ex rel. S.L. v. Ewing Twp. Bd. of Educ., EDU 4949-09, Initial Decision (June 15, 2009) <https://njlaw.rutgers.edu/OAL/index.php>. Since money damages are not available in education cases, and compensatory education is the only relief available, the analysis to be used is that if compensatory education, provided at a later date, cannot remedy the situation, then the harm is irreparable. Howell Twp. Bd. of Educ v. A.I. and J.I. ex rel. S.I., 2012 N.J. AGEN LEXIS 207 (May 2, 2012).

Respondent argues that in a special educational setting, irreparable harm is generally substantiated when there is a substantial risk of physical injury to the child or others or when there will be significant termination of the child's educational services. Respondent points out that it is petitioner who has refused to send T.P. to school on a consistent basis. The 504 plan that is in place is to accommodate his documented medical conditions. This includes excuse from strenuous/physically demanding physical education activities; granting immediate access to the school nurse/bathroom upon request when feeling ill or when symptomology is present; extended due dates for assignments; and state standardized testing accommodations.

T.P. has chronic absenteeism. In school year 2022–2023 he was absent 96 days; 2023–2024 he was absent 53 days; 2024–2025 he was absent 116.5 days; and in the present school year to date, he has been absent 43 times and late 33 times. This is troubling. Petitioner argues T.P. is stressed out and therefore needs to be home. Petitioner is the one that has kept him out of school. I **CONCLUDE** that petitioner has not satisfied the irreparable harm standard under Crowe.

Petitioner must also demonstrate that the legal right underlying her claim is settled and she must make a preliminary showing of a reasonable probability of success on the merits. Crowe, 90 N.J. at 133. Here, petitioner is requesting temporary home placement. N.J.A.C. 6A:16-10.1 is instructive on home or out-of-school placement due to temporary or chronic health conditions. It states:

- (a) The district board of education shall provide instructional services to an enrolled student, whether a general education student in kindergarten through grade 12 or special education student age three to 21, when the student is confined to the home or another out-of-school setting due to a temporary or chronic health condition or a need for treatment that precludes participation in their usual education setting, whether general education or special education.
1. To request home instruction due to a temporary or chronic health condition, the parent shall submit to the school district a request that includes a written determination from the student's physician documenting the projected need for confinement at the student's residence or other treatment setting for more than 10 consecutive school days or 20 cumulative school days during the school year.
    - i. The school district shall forward the written determination to the school physician, who shall verify the need for home instruction. The school physician may contact the student's physician to secure additional information concerning the student's diagnosis or need for treatment, and shall either verify the need for home instruction or shall provide to the district board of education reasons for denial.
  2. The school district shall notify the parent concerning the school physician's verification or reasons for denial within five school days after receipt of the written determination by the student's physician.
  3. The school district shall provide instructional services within five school days after receipt of the school physician's verification or, if verification is made prior to the student's confinement, during the first week of the student's confinement to the home or out-of-school setting.

[N.J.A.C. 6A:16-10.1.]

Petitioner has not submitted any medical documentation that satisfies the requirement. On May 8, 2026, petitioner submitted an unsigned medical note to the OAL. The note stated that T.P. "would benefit from allowing him to receive home instruction or remote access to his schoolwork, including assessments for the remainder of the current

school year or any reasonable accommodations to allow him to continue his education in a stress free environment to prevent harm/exacerbation of symptoms.” (Respondent’s Brief at Exhibit 4.) Although the note was unsigned and was sent after the filing of the emergent request, the District along with its physician reviewed the note and determined that it did not identify the medical condition for which home instruction might be needed, nor did it identify the symptoms that would be exacerbated. The school’s physician Dr. Ciufalo reached out to Dr. Tawadros, who is a family practice resident at Atlantic Health System. Dr. Tawadros was not available; however, Dr. Ciufalo spoke with his supervising attending physician. She informed him that the letter was unacceptable.

This letter does not meet the criteria under N.J.A.C. 6A:16-10.1. More specifically, the letter provides no explanation as to how T.P.’s medical condition could have prevented his attendance at Randolph. Accordingly, I **CONCLUDE** that petitioner has not satisfied the second and third prongs of the standard for emergent relief.

Finally, as to the fourth prong of the standard for emergent relief, having considered the equities and the interests of the parties, I **CONCLUDE** that the balance weighs in favor of respondent.

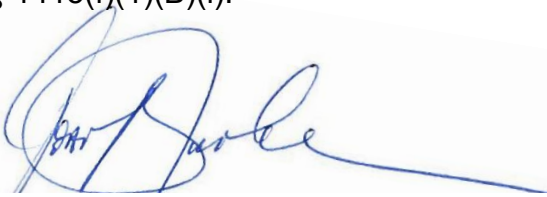
Therefore, for all of the foregoing reasons, I **CONCLUDE** that petitioner has not demonstrated entitlement to the emergent relief requested, since she has not satisfied any of the four prongs of the test.

### **ORDER**

It is **ORDERED** that the petitioner’s application 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).



May 14, 2026

DATE

JOAN M. BURKE, ALJ

Date Received at Agency:

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Date Mailed to Parties:

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**APPENDIX**

**Witnesses**

**For Petitioner:**

M.M.

**For Respondent:**

None

**Exhibits**

**For Petitioner:**

- P-1 Petitioner's submission accompanying the Emergent Application
- P-2 Various Emails with Attachments

**For Respondent:**

- R-1 Respondent's Brief in Opposition to the Application for Emergent Relief with Exhibits 1 through 5