



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

AMEDNED ORDER GRANTING
EMERGENT RELIEF

OAL DKT. NO. EDS 09850-26

AGENCY DKT. NO. 2026-41294

B.A. ON BEHALF OF J.S.,

Petitioner,

v.

DEPTFORD TOWNSHIP

BOARD OF EDUCATION,

Respondent.

B.A., petitioner, pro se

Geoffrey N. Stark, Esq., for respondent, Deptford Board of Education
(Capehart and Scatchard, attorneys)

BEFORE **SARAH G. CROWLEY**, ALJ:

Petitioner seeks an Order requiring respondent Deptford Township Board of Education (Board or District) to allow J.S. to walk at graduation, which is scheduled for June 18, 2026. The respondent argues that the student has not met the requirements for graduation so he will not be permitted to walk at graduation. However, the petitioner only seeks to allow the student, who is a senior, who has been provided with a cap and gown and allowed to participate in other senior activities, to walk with his fellow seniors. Arguments regarding the failure of the District to adequately follow the student's 504

Plan and keep the parents informed regarding the student are preserved for an underlying due process proceeding. The sole issue before me is the ability of this senior, who may or may not have met the requirements for graduation, to walk with his fellow seniors at graduation.

PROCEDURAL HISTORY

A petition was filed on June 17, 2026, requesting that the Deptford Township Board of Education allow J.S. to walk at graduation ceremonies on June 18, 2026. The case was transmitted to the Office of Administrative Law on June 17, 2026, under N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. Respondent did not file opposition to the petition, and argument was heard before the undersigned on June 17, 2026. The underlying due process case will proceed on a non-emergent track.

FINDINGS OF FACT

Having reviewed the arguments in support of and in opposition to the request for emergent relief, I **FIND** the following **FACTS**:

1. J.S. is a student in Deptford Township and is a student at Deptford High School.
2. J.S. has a 504 Plan and is a student with disabilities.
3. J.S. has been permitted to participate in all senior events and was provided with a cap and gown and tickets for his family to the graduation ceremony.
4. J.S. attended graduation practice and was advised yesterday that the District would not permit him to walk at graduation since he failed one or more classes.
5. I have no academic information from the District and I make no determination as to whether J.S. has met the requirements for graduation, only that J.S. should be permitted to walk with his fellow seniors at graduation.

DISCUSSION AND CONCLUSIONS OF LAW

Under N.J.S.A. 18A:6-9, the Commissioner's jurisdiction is defined and is limited to "controversies and disputes arising under the school laws." In Dunellen Board of Education v. Dunellen Education Association, 64 N.J. 17, 23 (1973), the New Jersey Supreme Court concluded that "the Legislature enacted provisions entrusting school supervision and management to local school boards . . . subject to the supervisory control [of] . . . the State Commissioner of Education."

The regulations governing such disputes before the Commissioner of Education provide that "[w]here the subject matter of the controversy is a particular course of action by a district board of education or any other party subject to the jurisdiction of the Commissioner, the petitioner may include with the petition of appeal, a separate motion for emergent relief or a stay of that action pending the Commissioner's final decision in the contested case." N.J.A.C. 6A:3-1.6(a). The regulations further provide that the Commissioner may "[t]ransmit the motion to the OAL for immediate hearing on the motion." N.J.A.C. 6A:3-1.6(c)(3).

N.J.A.C. 6A:3-1.6(b) sets forth the standards governing motions for emergent relief and instructs:

A motion for a stay or emergent relief shall be accompanied by a letter memorandum or brief which shall address the following standards to be met for granting such relief pursuant to Crowe v. DeGioia, 90 N.J. 126 (1982):

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.

The moving party must demonstrate each element and demonstrate that such relief is necessary “to ‘prevent some threatening, irreparable mischief, which should be averted until opportunity is afforded for a full and deliberate investigation of the case.’” Crowe, 90 N.J. at 132 (citation omitted).

Irreparable Harm

Harm is generally considered irreparable if monetary damages cannot adequately redress it. Id. at 132–33. In other words, irreparable harm is 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) (citation omitted). A claimant must demonstrate more than a risk of irreparable harm. Continental Group, Inc. v. Amoco Chems. Corp., 614 F.2d 351, 359 (3d Cir. 1980). The requisite for injunctive relief requires a “clear showing of immediate irreparable injury,” or a “presently existing actual threat; (an injunction) may not be used simply to eliminate a possibility of a remote future injury, or a future invasion of rights, be those rights protected by statute or by the common law.” Ibid. (citation omitted).

Petitioner argues that this student suffers from disabilities, including intellectual disabilities as well as mental-health diagnoses, and the inability to walk with his peers at graduation is indeed irreparable. I agree that monetary damages cannot adequately redress the inability to walk at graduation with your peers.

I agree with petitioner’s argument, and I **CONCLUDE** that petitioner has satisfied the burden as to irreparable harm, and relief must be granted to prevent substantial, immediate, and irreparable harm. Subcarrier Commc’ns, Inc. v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997).

Settled Legal Right

Emergent relief “should be withheld when the legal right underlying plaintiff’s claim is unsettled.” Crowe, 90 N.J. at 133 (citing Citizens Coach Co. v. Camden H. R. Co., 29 N.J. Eq. 299, 304–05 (E. & A. 1878)). The issue in this case is whether a student should be permitted to walk at graduation with his peers even though he may not have satisfied the requirements for graduation. There are issues that have been raised about the District and its compliance with the student’s 504 Plan. However, I make no determination on the merits of this argument. The right that we are addressing is the ability of a student who may or may not have met the requirements for graduation to simply walk with his peers at graduation. The District has provided no policy prohibiting such a practice and no legal arguments to the contrary.

I therefore **CONCLUDE** that petitioner has met the burden of establishing a legal right for the student to walk at graduation after being provided with a cap and gown and allowed to participate in all other senior activities.

Likelihood of Success on the Merits

Under the third emergent-relief standard, “a plaintiff must make a preliminary showing of a reasonable probability of ultimate success on the merits.” Crowe, 90 N.J. at 133 (citing Ideal Laundry Co. v. Gugliemone, 107 N.J. Eq. 108, 115–16 (E. & A. 1930)). This requirement is often implicitly tied to whether the right to the underlying claim is settled. The District has not provided any policy or argument demonstrating that a student should not be entitled to walk at graduation. The District has presented no rational basis for not permitting this student to walk with his fellow seniors at graduation.

Therefore, I **CONCLUDE** that petitioner has met this prong of the emergent-relief standard.

Balancing of the Equities

Lastly, petitioner has clearly met the fourth emergent-relief standard, which involves “the relative hardship to the parties in granting or denying relief.” Crowe, 90 N.J. at 134 (citing Isolantite, Inc. v. United Elect. Radio & Mach. Workers, 130 N.J. Eq. 506, 515 (Ch. Div.1941), mod. on other grounds, 132 N.J. Eq. 613 (E. & A. 1942)).

The respondent has presented no argument regarding any harm to the District in allowing this student to walk at graduation. Moreover, the irreparable harm in not allowing a student with disabilities to walk at their graduation is clear. I **CONCLUDE** that petitioner has indeed demonstrated such harm.

Therefore, for all the foregoing reasons, I **CONCLUDE** that petitioner has demonstrated entitlement to the emergent relief requested, and the student should be permitted to walk at graduation on June 18, 2026.

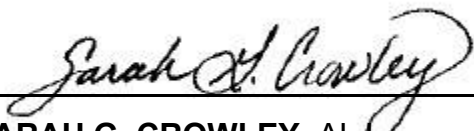
ORDER

It is **ORDERED** that petitioner’s application for emergent relief 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.

June 23, 2026

DATE



SARAH G. CROWLEY, ALJ

Date Received at Agency:

Date Mailed to Parties:

SC/oni

DOCUMENTS RELIED UPON

Petitioner's Petition