



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

ON EMERGENT RELIEF

OAL DKT. NO. EDS 03388-23

AGENCY DKT.NO. 2023-35766

P.R. AND A.R. ON BEHALF OF P.R.,

Petitioner,

v.

WAYNE TOWNSHIP BOARD OF EDUCATION,

Respondent.

P.R. , petitioner appearing pro se.

Margaret Miller, Esq. for respondent (Weiner Law Group, LLC)

BEFORE **KIMBERLY A. MOSS**, ALJ:

STATEMENT OF THE CASE

Petitioners, P.R and A.R. on behalf of minor child P.R., brings this action seeking home instruction and related services.

PROCEDURAL HISTORY

On April 26, 2023, the Office of Special Education Programs transmitted the matter to the Office of Administrative Law (OAL) for emergent relief. Opposition to the motion was filed on April 27, 2023. Oral arguments were held on April 28, 2023.

FACTUAL DISCUSSION

After carefully considering the documentary evidence presented, and having had the opportunity to hear oral arguments, I **FIND** the following **FACTS**:

P.R. is a resident of the Wayne Township school district. P.R. receives special education services under the classification of autism. P.R. is presently enrolled in the Crossroads Academy in Clifton, New Jersey, an out of district placement. He began at Crossroads on November 14, 2022. P.R. had difficulty getting to school on time. The school day began at 8:30 am.

A thirty-day IEP meeting was held on December 15, 2022. At that meeting it was decided that the P.R.'s schedule was amended so that P.R. could attend school from 10:00 a.m. to 2:30p.m. In January 2023, P.R. was absent from school eleven and tardy ten times. There was another meeting of the parties on January 18, 2023, to discuss P.R.'s attendance problems. Respondent alleges that Crossroads offered petitioner a social worker and behaviorist services to assist the family with getting P.R. ready for school. Petitioners rejected the offer. In February 2023, P.R. only attended Crossroads on February 14, February 15, and February 27th. A meeting was held on March 27, 2023, to discuss P.R.'s attendance problem. Petitioners stated that they could not get P.R. ready for school or engage in activities outside of the house. Crossroads had informed the District that P.R. had difficulties with transitions.

P.R. was absent from school nine days in March 2023 and five days in April 2023. He was tardy fourteen days in March 2023 and five days in April 2023.

Petitioners state that P.R. is non- verbal although he does use words sporadically. Petitioner states that P.R. has the following medical conditions: Post

Traumatic Stress Disorder, catatonia, obsessive compulsive disorder, misophonia, and enuresis. They have not provided any medical documentation.

Petitioner stated that they intended to drive P.R. to school until he got used to the school. P.R. was in a classroom with two other students. He previously was not in a class with other children. He states that P.R has a history of avoiding schools and classrooms due to being around loud and disruptive students.

On February 2, 2023, P.R. had four wisdom teeth removed. Petitioner states that P.R. has regressed with transitions and behaviors since he started at Crossroads. Petitioner stated that they are constantly going to doctors to pinpoint P.R.'s illnesses. Petitioner is concerned that Crossroads has two to four people escorting P.R. in and out of the school. He states that the escorts use gym mats.

Petitioner has no documentation that home instruction, a more restrictive environment is an appropriate placement for P.R.

No evidence of regression was presented. No documentation that Crossroad triggered anxiety in P.R. was produced.

Petitioners state that P.R. has mold in his system and has developed head ticks. In addition, petitioner has a history of urinating on himself.

LEGAL ANALYSIS AND CONCLUSION

The standards for the granting of emergent relief are set forth in N.J.A.C. 6A:3-1.6(b). Emergent relief may be granted if the judge determines from the proofs that:

1. The petitioner will suffer irreparable harm if the requested relief is not granted;
2. The legal right underlying the 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.

In this matter, the petitioner has not shown that P.R. will suffer irreparable harm if he is not given home instruction. Petitioner has provided no documentation that P.R. has regressed. In addition, other than when P.R. had wisdom removed in February 2023, P.R. had many unexcused absences. There was no evidence that P.R. will suffer irreparable harm if he continues to attend Crossroads.

Petitioners have not shown that they have a likelihood of prevailing on the merits or that the petitioners' underlying claim is settled, they have not provided any legal arguments or case law that supports their position. They have not shown that home instruction is appropriate for P.R.

In this case, after hearing the arguments of petitioner and respondent and considering the documentation submitted, I **CONCLUDE** that petitioner has not met the requirements of N.J.A.C. 6A:3-1.5(b).

ORDER

It is **ORDERED** that the petition for emergent relief be and is hereby **DENIED**.

This decision on application for emergency relief shall remain in effect until the issuance of the decision on the merits in this matter. The hearing having been requested by the parents, this matter is hereby returned to the Department of Education for a local resolution session, pursuant to 20 U.S.C.A. § 1415 (f)(1)(B)(i). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education.

April 28, 2023



DATE

KIMBERLY A. MOSS, ALJ

Date Received at Agency

April 28, 2023

Date Mailed to Parties:

April 28, 2023