

**New Jersey Commissioner of Education**  
**Final Decision**

Andrew Policastro,

Petitioner,

v.

Board of Education of the Borough of Tenafly,  
Bergen County,

Respondent.

The record of this matter, the August 14, 2024 Order of Administrative Law Judge (ALJ) Margaret M. Monaco, respondent Tenafly Board of Education's (Board) request for interlocutory review, and petitioner's objection and response thereto have been reviewed and considered.

Petitioner filed a complaint with the Board, alleging that Tenafly High School principal James Morrison and vice principal Richard Suchanski disregarded attendance policies at Tenafly High School in 2020 and 2021, and requested that the Board, via the New Jersey Department of Education, suspend their licenses for one year. The Board denied the request, and petitioner appealed. The petition indicates that the relief he is requesting is to "[s]uspend for 1 year the administrative licenses of [Morrison and Suchanski] for inefficiency (a tenure level offense)."

The Board filed a motion for summary decision, arguing that its relaxation of attendance policies during the Covid-19 pandemic did not violate federal or State law or Board policy. The Board further contended that even assuming petitioner's allegations were true, he cannot

compel the Board to discipline or certify tenure charges against its employees.<sup>1</sup> The ALJ denied the Board's motion, concluding that the evidence at this juncture is insufficient to dispose of the matter via summary decision, and that a proper weighing requires a full development of the facts at an evidentiary hearing.

The Board requested interlocutory review of the ALJ's Order, reiterating the arguments made in its motion for summary decision. Petitioner objected to the request.

Upon review, the Commissioner concludes that the Board is entitled to summary decision. Even if there are disputed issues of fact regarding the Board's attendance policies and the administrators' implementation of those policies,<sup>2</sup> those disputes do not alter the conclusion that, as a matter of law, petitioner is not entitled to the relief he seeks. The specific relief that petitioner seeks is a one-year suspension of Morrison and Suchanski's licenses. The suspension of an administrator's certificate (or "license") is an action solely within the authority of the State Board of Examiners, pursuant to *N.J.A.C. 6A:9B-4.5*. The Commissioner has previously determined that an individual may not compel the revocation of a teacher's certificate and dismissed a petition of appeal seeking that relief. *C.S., o/b/o minor child, I.S. v. Rikki Frischman*, Commissioner Decision 32-23, decided Feb. 2, 2023. Similarly, the Commissioner concludes that here, petitioner may not compel the suspension of Morrison and Suchanski's certificates. While petitioner, in his objection, attempts to distinguish *C.S.* on procedural grounds, the Commissioner

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<sup>1</sup> The Board also sought summary decision on the grounds that petitioner had not complied with certain procedural requirements. The Commissioner concurs with the ALJ that this portion of the Board's motion should be denied, for the reasons detailed in the ALJ's Order.

<sup>2</sup> The Commissioner does not reach any conclusions regarding the merits of petitioner's allegations, as it is unnecessary to do so.

concludes that the petition in this matter seeks the same relief as the petition in C.S., and that it fails for the same reason.

Petitioner has also characterized this matter as an appeal of the Board's denial of his request that the Board file tenure charges against Morrison and Suchanski for inefficiency. Initially, the Commissioner notes that even if the Board had filed tenure charges against the administrators, and those charges had been sustained by an arbitrator, the result would not have been a suspension of their certificates. An action to suspend an administrator's certificates by the Board of Examiners is a completely separate process from tenure charges filed by a board of education. *See Morison v. Willingboro Bd. of Educ.*, 478 N.J. Super. 229 (App. Div. 2024); *I/M/O the Certificates of Nicholas Cilento, State Bd. of Examiners, N.J. Dept. of Educ.*, 2024 N.J. Super. Unpub. LEXIS 1342 (App. Div. Jun. 26, 2024). Accordingly, even if the Commissioner were to determine that the Board should have filed tenure charges against Morrison and Suchanski, that determination would not result in the relief petitioner requests and, therefore, his petition must fail as a matter of law.

Moreover, while the filing of tenure charges is not the relief specified in the petition of appeal, giving petitioner leeway because he is pro se, the Commissioner will also address the issue of whether the Board should have filed tenure charges. Tenured employees are protected against dismissal or reduction in compensation by New Jersey's tenure laws. *N.J.S.A. 18A:28-1 et seq.* Petitioner requested that the Board file tenure charges against Morrison and Suchanski for inefficiency. Inefficiency charges are based on the employee's evaluations and require specific numbers of consecutive ineffective or partially effective ratings. *N.J.S.A. 18A:6-17.3.* Petitioner has not provided any evidence that Morrison or Suchanski received evaluations that

would warrant inefficiency charges. Absent such evaluations, the Board would be without authority to pursue inefficiency charges, and the Commissioner concludes that petitioner cannot compel the Board to do something that it lacks the authority to do.<sup>3</sup>

Accordingly, the Board's motion for summary decision is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.<sup>4</sup>



ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 6, 2024

Date of Mailing: September 9, 2024

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<sup>3</sup> Alternatively, and again giving petitioner leeway, if the petitioner were requesting that the Board file tenure charges against Morrison and Suchanski for reasons other than inefficiency, his claim still fails as a matter of law. Tenure charges may only be commenced through a written charge, accompanied by a written statement of evidence under oath to support the charge. *N.J.S.A.* 18A:6-11. Even if the Commissioner accepted that an individual could file such a charge, petitioner failed to do so.

<sup>4</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A.* 18A:6-9.1. Under *N.J.Ct.R.* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.