

## New Jersey Commissioner of Education

### Final Decision

In the Matter of the Suspension of the  
Teaching Certificate of Nicholas Spiniello,  
Board of Trustees of Central Jersey College Prep  
Charter School, Somerset County.

#### Synopsis

This matter was opened before the Commissioner of Education on October 13, 2022, by way of an Order to Show Cause served by the petitioner, the Board of Trustees of the Central Jersey College Prep Charter School (Board), upon the respondent, Nicholas Spiniello, a Teacher Physical Education/Health, requiring respondent to show cause why an order should not be entered suspending his teaching certificate for unprofessional conduct pursuant to *N.J.S.A. 18A:26-10* after he resigned his position without giving the sixty-day (60) notice required by his contract with the petitioner. Respondent filed an answer to the Order to Show Cause stating that he was unable to fulfill his contractual obligations because of a family emergency that required him to be out of state. The respondent failed to provide documentation or details regarding his family emergency despite several requests for him to do so, and subsequently failed to appear for two scheduled pre-hearing conferences. Accordingly, the ALJ concluded that respondent's teaching certificate should be suspended for a period of one year.

Upon review, the Commissioner concluded that the respondent did not deny the allegations that he resigned without giving the notice required in his contract, but only attempted to explain his early resignation by stating that he experienced a family emergency. No documentation or detail regarding the nature of the emergency was provided despite several requests. Therefore, the Commissioner deemed the allegations to be admitted and further deemed them sufficient to justify suspension of respondent's teaching certificates pursuant to *N.J.S.A. 18A:26-10* and *N.J.S.A. 18A:28-8*. Accordingly, respondent's certificates were suspended for a period of one year from the date of the filing of this decision – a copy of which was forwarded to the State Board of Examiners for the purpose of effectuating this order.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

203-23

OAL Dkt. No. EDU 10387-22

Agency Dkt. No. 283-10/22

## **New Jersey Commissioner of Education**

### **Final Decision**

In the Matter of the Suspension of the Teaching Certificate of Nicholas Spiniello, Board of Trustees of Central Jersey College Prep Charter School, Somerset County.

This matter was opened before the Commissioner of Education on October 13, 2022, by way of an Order to Show Cause served by petitioner, Board of Trustees of the Central Jersey Prep Charter School (Board), upon respondent, Nicholas Spiniello, requiring respondent to show cause why an order should not be entered suspending his teaching certificates pursuant to *N.J.S.A. 18A:26-10* and *N.J.S.A. 18A:28-8* for resigning without giving the notice required by law. On November 9, 2022, the Department of Education (DOE) received respondent's answer, and the case was transmitted to the Office of Administrative Law.

The Administrative Law Judge (ALJ) issued an Initial Decision indicating that respondent failed to appear for two scheduled pre-hearing conferences. Accordingly, the ALJ concluded that respondent's teaching certificate should be suspended for one year.

The petition and supporting exhibits submitted by petitioner in this matter indicate that: respondent entered into a contract to work as a teacher for the 2022-23 school year; the contract provides that it can be terminated by either party upon sixty days' written notice; and respondent resigned on September 2, 2022, effective immediately. In his answer, the respondent does not deny these allegations, but only attempts to explain his early resignation

by stating that he experienced a family emergency; however, no documentation or detail regarding the nature of the emergency was provided. Therefore, the Commissioner deems such allegations to be admitted and further deems them sufficient to justify suspension of respondent's teaching certificates pursuant to *N.J.S.A. 18A:26-10* and *N.J.S.A. 18A:28-8*.

Accordingly, summary decision is hereby granted to petitioner, and respondent's teaching certificates are suspended for a period of one year from the filing date of this decision, a copy of which shall be forwarded to the State Board of Examiners for implementation of the suspension.

IT IS SO ORDERED.<sup>1</sup>

  
ACTING COMMISSIONER OF EDUCATION

Date of Decision: July 6, 2023

Date of Mailing: July 7, 2023

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<sup>1</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.



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

**INITIAL DECISION**

**FAILURE TO APPEAR**

OAL DKT. NO. EDU 10387-22

AGENCY DKT. NO. 282-10/22

**IN THE MATTER OF THE SUSPENSION  
OF THE TEACHING CERTIFICATE OF  
NICHOLAS SPINIELLO, BOARD OF  
TRUSTEES OF CENTRAL JERSEY  
COLLEGE PREP CHARTER SCHOOL,  
SOMERSET COUNTY.**

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**Thomas O. Johnston**, Esq., for petitioner (The Johnston Law Firm, LLC,  
attorneys)

**Nicholas Spiniello**, respondent, pro se

Record Closed: May 19, 2023

Decided: May 24, 2023

BEFORE **EDWARD J. DELANOY, JR.**, Deputy Director and ALAJ:

**STATEMENT OF THE CASE**

Petitioner, Board of Trustees of Central Jersey College Prep Charter School, seeks the suspension of Nicholas Spiniello's (respondent) teaching certificate.

## **PROCEDURAL HISTORY AND FACTUAL DISCUSSION**

This matter was transmitted to the Office of Administrative Law (OAL), where it was filed on November 17, 2022. The parties participated in a pre-hearing conference on January 11, 2023. During the pre-hearing conference the parties agreed to have the next scheduled status conference on March 8, 2023. Notice of that telephone conference was emailed to petitioner and respondent on January 12, 2023. The respondent failed to participate in the scheduled conference. The matter was scheduled for another status conference on May 1, 2023. Notice of that telephone conference was emailed to petitioner and respondent on March 9, 2023. Again, the respondent failed to participate in the scheduled conference.

## **LEGAL DISCUSSION AND CONCLUSIONS OF LAW**

Pursuant to N.J.A.C. 1:1-14.4(a),

If, after appropriate notice, neither a party nor a representative appears at any proceeding scheduled by the Clerk or judge, the judge shall hold the matter for one day before taking any action. If the judge does not receive an explanation for the nonappearance within one day, the judge shall, . . . direct the Clerk to return the matter to the transmitting agency for appropriate disposition pursuant to N.J.A.C. 1:1-3.3(b) and (c).

This matter was scheduled for two telephone conferences. Respondent was given notice of all telephone conferences. All telephone status conference notices contain the following language:

Failure to dial in for the telephone conference, will result in the file being returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party.

Respondent did not participate in the March 8, 2023, telephone status conference and did not contact the OAL to explain why he was unable to do so.

Another telephone status conference was scheduled to be heard on May 1, 2023. Proper notice of that telephone conference was emailed to the petitioner and respondent on March 9, 2023.

The respondent did not participate in the May 1, 2023, telephone conference and did not contact the OAL to explain why he was unable to do so.

### **CONCLUSION**

To date, the respondent has not provided a request for an adjournment of the May 1, 2023, telephone conference or an explanation for his nonappearance for the same. Neither has this office received notice of legal representation on behalf of the respondent. Therefore, I **CONCLUDE** that respondent has failed to appear and abandoned his appeal.

### **ORDER**

It is hereby **ORDERED** that respondent's teaching certification is suspended for one year.


It is hereby **ORDERED** that petitioner's relief is **GRANTED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

May 24, 2023  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
**EDWARD J. DELANOY, JR.,**  
Deputy Director and ALAJ

Date Received at Agency: \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_

/cb