

IN THE MATTER OF TENURE ARBITRATION
BETWEEN

North Bergen Board of Education

-And-

Alexander Arango

New Jersey Commissioner of Education Docket No: 102-3/26

Arbitrator: Kinard Lang

Hearing Location: Offices of Scarinci Hollenbeck

Hearing Date: August 24, 2026

Post Hearing Briefs Received: September 11 and 22, 2026

APPEARANCES:

Mark A Tabakin, Esq. – North Bergen Board of Education

Brian M. Adams, Esq. – Alexander Arango

ISSUE: Did Alexander Arango engage in unbecoming conduct and/or other just cause warranting discipline under Title 18A, and does the proven conduct warrant dismissal from his tenured employment.

BACKGROUND

This matter comes to arbitration as the result of the following stipulated occurrences. Arango, sometimes hereinafter Respondent, began his employment with North Bergen Board of Education, sometimes herein the Board or Employer, on September 1, 2007. The record of his employment from that date until the events giving rise to this arbitration show he was at least a satisfactory teacher. Those events began when Arango *discovered* what his November 14, 2025 email to District Superintendent, George Solter and school Principal Alonso described as, “...*the current situation in Room 108 at Horace Mann School.*”

That “situation” was, according to the parties’ Joint Stipulation Numbers 17-19:

“... 17. During the 2025-2026 school year, Horace Mann School included a Learning-Language Disabilities classroom housed in Room 108.

18. At the start of the 2025-2026 school year the teaching staff member assigned to the Room 18 LLD classroom resigned from employment...

*19. After that resignation, the District assigned a substitute teacher to Room 108 while the District worked to recruit and retain a **certified special education teacher** for the position,...”(Emphasis supplied).*

The cited email, extracted in part below, was blind carbon-copied to several of the parents of students in LLD classroom 108:

*"I am writing to formally express my deep concern regarding the current situation in Room108 at Horace Mann School. We are now two and a half months into the school year-an entire quarter-and the students assigned to this classroom have been without a certified teacher since the beginning of the year..... As a District, we have a legal and ethical responsibility to ensure that all students receive the services and educational opportunities mandated by their IEPs and protected under federal law, including the Individuals with Disabilities Education Act (IDEA) and the right to a free and appropriate public education (FAPE).....I cannot, in good conscience, be complicit in a situation that compromises the educational well-being of these children.....I will advocate for these children **and will let the parents know of what is happening. It is illegal if we don't.**", (Emphasis added).*

POSTIONS OF THE PARTIES

North Bergen Board of Education

We are told, among many other things, that Respondent's conduct warrants dismissal, and any other penalty for his evidenced misconduct would be inadequate. That is so because he violated multiple District Policies:

"The policy violations matter for penalty as well. Policy 3150 expressly makes violations of statutes, State Board rules, Board Policies, and administrative rules and regulations subject to discipline.

*and places dismissal within the available range. Policy 3321 separately identifies suspension and dismissal as potential consequences for misuse of District technology. J-4; Policy 3150. **Those provisions do not mandate dismissal in every case**, but they confirm that the Board treated this type of misconduct seriously. On this record – special education students, non-directory parent contact information, hidden BCC distribution, disclosure of disability and IEP-related information, accusation of illegality, and Arango’s continued defense of his conduct- dismissal is warranted. (Emphasis supplied)*

Respondent Arango

The issue before the Arbitrator consists of two elements, the first of which is resolved through a simple reading of the facts and the Board’s arguments; the second is whether that evidenced unbecoming conduct is “just cause” for Arango’s dismissal. That has not been proven.

We are asked to find Arango’s proven offense, when considered in the light of the so called “*Fulcomer factors*”, deserving of discipline, but not the employment equivalent of Capital punishment.

In evaluating the Tenure Charges and penalty in this case, we are asked to rely on the court’s analysis “In re Re David Fulcomer 93, NJ Super 404”. That matter has been referred to and relied upon consistently since 1967.

Fulcomer informs us that when deciding whether a teacher should be dismissed, suspended, or face teaching certificate.

revocation, the reviewing body must weigh the following factors:

- *Nature and Gravity of the offense.*
- *Prior Record.*
- *Provocation, Extenuation or Aggravation.*
- *Impact on Discipline and Administration.*
- *Likelihood of Recurrence/Present Attitude.*

Of course, both parties to the instant argue opposite views how, if at all, I should weigh the cited “*Factors*” in determining what Arango deserves.

DISCUSSION AND ANALYSIS

Nature and Gravity

The Employer tells us the nature and gravity of Respondent’s Misconduct were serious and heavy:

*“...The harm to the District was practical, not theoretical ...not limited to disagreement with Arango’s opinion. Dr. Solter testified that once the District learned parents had been blind-copied, it conducted an internal investigation and **began disciplinary proceedings.** The District also had to respond to parents. The Supervisor of Special Services and case managers met with parents after Arango’s communication...That is the institutional harm. Arango stepped into a role he did not have, created confusion for parents, and forced the District to manage a Parent communication it had no chance to address before the accusation was sent.”*

The Respondent argues the Nature and Gravity of Arango's email distribution must be appraised in the light of intent, we are told:

"...Mr. Arango sent the email because he though he was acting in the best interest of the students...the email was not mean spirited or intended to punish any member of the school community. Its purpose as stated in the email was to make parents aware of a staffing issue associated with Room 108 at the Horace Mann School."

The Superintendent's testimony displayed his pique with Arango's audacious email, entitled "student neglect", indicting how **he** was handling Horace Mann School's LLD Teacher shortage. However, the record contains no compelling evidence of the breadth or depth of enduring damage arising from this single isolated event. Testimony from the affected community of interest, perhaps including the School Principal, could have evidenced the asserted great gravity of Arango's misconduct. I am not convinced it exists.

Prior Record

The District argues Respondent's prior unblemished record of nearly twenty years employment *"...does not defeat dismissal. A clean record may matter in a borderline case. This is not a borderline case."* We are told the District's Disciplinary Policy 3150 *"...does not require the District to treat a deliberate breach of confidentiality as a training issue or guarantee progressive discipline for a serious first offense involving deliberate misuse of confidential student and parent information."* Arango argues to the contrary.

Respondent asserts there is no testimonial or documentary evidence supporting District asserted apprehension that Arango would repeat his misbehavior, if reinstated. I agree and find the District's contention Arango's clean record deserves no weight, because this is not a "*borderline case*", inconsistent with my reading of Fulcomer, and the trail of cases referencing it.

I find his unblemished record is evidence of his ability to "*behave*".

Provocation, Extenuation or Aggravation

Respondent would have us believe his concern for the LLD students in classroom 108 provoked him to "*...advocate for these students and...let the parents know of what is happening. It is illegal if we don't.*" Facially that is sound provocation, but the District tells us more; the advocacy promised in the quoted email did not go through proper channels and contained unfounded charges of illegality.

The District says worst of all, the purported advocacy was secretly served upon Superintendent Solter and the parents of the affected students, simultaneously. What we have here, then, is flimsy provocation and profound aggravation.

Impact on Discipline and Administration

As observed in our discussion of the Gravity of Arango's email offense, his misconduct necessitated meetings with parents and professional personnel engaged in the Special Education of certain students. Clearly, those meetings occurred under less-than-ideal circumstances. However, I am not convinced the Arango incident will have lasting impact on School District administration or discipline.

Likeihood of Recurrence/Present Attitude

Citing Ciripompa, 228 N.J. at 14 Karins, 152 N.J. at 561-62, the Board argues *“it was not required to wait until the disruption deepened before acting...the Supreme Court recognized that an employer need not allow events to unfold to the point of full institutional disruption before responding to unbecoming conduct.”*

We are told reinstating Arango would offer him additional opportunities to betray the District’s trust by repeating his unauthorized disclosure of confidential information.

“The email also disclosed confidential student information in its content. Arango identified Room 108, described the students as having special needs, referenced non-verbal students and students with severe autism, and invoked IEP’s, IDEA and FAPE.”

The Union argues parents already knew about their own children’s educational disabilities, and my reading of the record discloses no direct naming or attachment of any specific student to any educational *procedure*. That being so, I find Respondent did not, per se, disclose confidential information.

Conclusions

What we have here literally, is a teacher who *told tales out of school*; Arango did not confine expression of his legitimate concerns regarding Room 108 to the halls of Horace Mann School. Concealing conveyance of that *expression* to parents, from Horace Mann’s Principal, Administrative personnel, and the Superintendent, created his culpability.

That is so because Superintendent Solter's testimony convinces me that had Respondent expressed his concerns through the *chain of command*, and subsequently to parents, his access and use of assertedly confidential data would not have resulted in Tenure charges.

We have seen that the Principal and Superintendent were certainly aware of the "conditions in Room 108" regarding which Arango was disturbed. However, the record does not convince me all the affected parents knew their LLD children had not had the services of a certified LLD teacher from the beginning of the 2025-26 School year until the November 14th date of Respondent's email.

Essentially, Respondent's misconduct was procedural, he failed to take his concerns and complaint of educational illegality through proper channels and conveyed them to parents *Sub rosa*.

With respect to *procedure*, District Policy "3150 DISCIPLINE", says in pertinent part:

"The Superintendent shall deal with disciplinary matters on a case by case basis. Discipline measures will include verbal and written warnings as appropriate and will provide wherever possible, for progressive penalties for repeated violations. Penalties may include suspension, withholding one or more increments and dismissal.

In the event disciplinary action is contemplated, notice will be given to the teaching staff member in ordinary and concise language of the specific acts and omissions upon which the disciplinary action is based...

“a date when the member may be heard and the administrator who will hear the matter.” (Emphasis added)

The cited language tells me Arango was **entitled** to a *confrontation* with his accuser, the Superintendent, during the three month “*contemplation*” period between the “student negligence” email, and the Tenure charges. That is so despite the District’s argument: “*Policy 3150 Does not create mandatory lesser-penalty regime or a separate pre-certification hearing requirement...Policy 3150 does not add a separate pre-certification meeting as a jurisdictional prerequisite.*”

The Policy is a unilateral dictum lacking the force and effect of a collectively bargaining Agreement provision. As such the Employer’s failure to adhere to the Policy’s unambiguous requirement that Arango be *Heard*, does not constitute a possible basis for Reversal of the discipline imposed.

However, that failure within the context of what the evidence demonstrates was the Superintendent’s overreaction, results in the following Award.

AWARD

The proven misconduct does not warrant Alexander Arango’s Dismissal. He shall be reinstated immediately with backpay for the period of his Disciplinary Suspension in excess of 120 calendar days.

Kinard Lang – Arbitrator/Mediator, October 18, 2026

