

#403-11 (OAL Decision: http://lawlibrary.rutgers.edu/oal/html/initial/edu04486-11_1.html)

IN THE MATTER OF THE TENURE :
HEARING OF DONALD SALAAM, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE TOWNSHIP: DECISION
OF IRVINGTON, ESSEX COUNTY. :

SYNOPSIS

In April 2011, the petitioning Board certified charges of conduct unbecoming against respondent – a tenured special education teacher employed in the District’s Alternative Program – based on an incident during which respondent advised a group of male students on how to engage in sexual acts with women. Following transmittal of the matter to the Office of Administrative Law (OAL) as a contested case, respondent submitted to the petitioning Board an irrevocable letter of resignation from his position.

The ALJ found and concluded that tenure charges against respondent have been rendered moot by his resignation, and accordingly the charges should be dismissed. In so determining, the ALJ noted that *N.J.A.C. 6A:9-17.4* requires that if a tenured staff member resigns while accused of unbecoming conduct, the Board – through its Superintendent of Schools – is obliged to notify the State Board of Examiners (State Board). Accordingly, the ALJ ordered the tenure charges dismissed as moot, and ordered the Board to notify the State Board that respondent resigned while tenure charges were pending against him.

Upon review, the Commissioner concurred with the ALJ that the tenure charges are moot based on the respondent’s resignation, and accordingly adopted the Initial Decision of the OAL as the final decision in this matter. In so determining, the Commissioner noted that the inexcusable conduct alleged in this case, if true, would clearly amount to conduct unbecoming and demand significant consequences.

<p>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.</p>

September 26, 2011

OAL DKT. NO. EDU 04486-11
AGENCY DKT NO. 74-4/11

IN THE MATTER OF THE TENURE :
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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed.¹ This case involves tenure charges brought by the Board against the respondent Donald Salaam, a teacher in the Irvington Township School District. The Board charged the respondent with unbecoming conduct based on an incident during which the respondent, who taught special education in the District's Alternative Program, advised a group of male students how to engage in sexual acts with women. The Administrative Law Judge ("ALJ") found that this matter was rendered moot by the respondent's resignation and that the tenure charges should be dismissed.

The Commissioner concurs with the ALJ that the tenure charges are moot based on the respondent's resignation.² Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter, and the tenure charges are dismissed as moot. This matter will be transmitted to the State Board of Examiners for action against respondent's certificate(s) as that body deems appropriate.

IT IS SO ORDERED.³

ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 26, 2011
Date of Mailing: September 27, 2011

¹ The parties did not file exceptions.

² The Commissioner further notes that the conduct that was alleged in this case is extremely disconcerting. Undoubtedly, if the allegations are true there is very little analysis required to conclude that this type of inexcusable behavior amounts to unbecoming conduct which would demand significant consequences.

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*. (*N.J.S.A. 18A:6-9.1*)