

#250-13

IN THE MATTER OF THE TENURE :  
HEARING OF AMBER GALLO, : COMMISSIONER OF EDUCATION  
SCHOOL DISTRICT OF GLOUCESTER : DECISION  
COUNTY SPECIAL SERVICES, :  
GLOUCESTER COUNTY. :

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SYNOPSIS

Petitioning Board filed tenure charges of conduct unbecoming, insubordination and neglect of duty against respondent – a tenured teacher of the handicapped – and sought to terminate her employment with the district. Neither respondent nor any attorney acting on her behalf filed an answer to the petition following notice pursuant to *N.J.A.C.* 6A:3-5.3 and 6A:3-5.4.

The Commissioner concluded that, pursuant to *N.J.A.C.* 6A:3-5.4(h), the allegations – which respondent has chosen not to deny – may be deemed admitted and are sufficient to warrant termination of the respondent from her tenured position. Accordingly, the Commissioner granted summary decision to the petitioner, dismissed the respondent from her tenured position in petitioner’s school district, and forwarded a copy of this decision to the State Board of Examiners for review and action as that body deems appropriate.

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.

July 1, 2013

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For the School District of Gloucester County Special Services,  
Michael J. DiPiero, Esq., Brown & Connery, LLP

No appearance by or on behalf of Amber Gallo

This matter was opened before the Commissioner of Education on May 13, 2013 through the certification of tenure charges of conduct unbecoming a public employee, insubordination and neglect of duty by the Board of Education of the Gloucester County Special Services School District, Gloucester County, against Amber Gallo – a tenured teacher of the handicapped. The District seeks Ms. Gallo’s dismissal from her position.

By notice dated May 13, 2013, the Commissioner directed respondent, via both certified and regular mail, to file an Answer to the tenure charges against her.<sup>1</sup> This communication clearly provided notice to respondent that, pursuant to *N.J.A.C. 6A:3-5.3* and *6A:3-5.4*, an individual against whom tenure charges are certified “*shall have 15 days from the day such charges are filed with the Commissioner to file a written response to the charges with*

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<sup>1</sup> This notice was sent to respondent at a provided address in Voorhees, NJ. Subsequently, a detailed review of the file indicated that respondent may instead be located at an address in Erial, NJ. Therefore, on June 4, 2013, a second notice was mailed – certified and regular mail – to respondent at both addresses. Both of the notices mailed to Erial, NJ were returned to the Department marked “Forward time expired – return to sender.” The certified notice sent to the Voorhees, NJ address was returned to the Department marked “Unclaimed”. The notice sent to Voorhees by regular mail was not returned and it is, therefore, presumed that delivery of this notice was completed.

*the Commissioner,”* and that failure to answer within the prescribed period would – absent granting of an extension for good cause shown – result in the charges being deemed admitted by the charged employee. Because no reply has been received from respondent, or any attorney on her behalf, in response to the District’s charges, such charges against respondent are deemed to be admitted.

The Commissioner has reviewed the tenure charges certified against respondent by the District along with the statement of evidence in support of those charges. Specifically:

Charge No. 1: Ms. Gallo is guilty of conduct unbecoming a board employee as Ms. Gallo was caught with a controlled substance for the second time in less than two years, which resulted in Ms. Gallo’s teaching license being suspended, again. Furthermore, she failed to comply with the conditions of her return to work agreement with the District that settled her previous tenure charges.

Charge No. 2: Ms. Gallo is guilty of neglect of duty. As a teacher, Ms. Gallo has a duty to report in a timely fashion for all scheduled days and stay until the completion of school unless a valid excuse exists, which is promptly communicated to school administrators. Furthermore, Ms. Gallo had a duty to stay in contact with the District and keep them informed of her situation. This duty exists not only as a District employee but also in accordance with the terms of her return to work agreement with the District. Since March 2012, Ms. Gallo has not provided the District with any information as to the status of the pending criminal charges, her substance abuse treatment or when she will be able to return to work, despite attempts by the District to reach out to Ms. Gallo. Thus, Ms. Gallo’s failure to keep the District informed of the status of her situation constitutes neglect of duty, in violation of District Policy No. 3159 and the terms of her return to work agreement which led to the settlement of her previous tenure charges.

Charge No. 3: Ms. Gallo has demonstrated a pattern of insubordinate behavior as set forth above. Her consistent disregard for directives seeking that she provide information and periodically update the District regarding the status of her pending criminal charges, her substance abuse treatment, or when she can return to her teaching position with the District warrants her dismissal from employment.

Noting that respondent has failed to respond to the allegations against her, the Commissioner finds that the District has demonstrated that respondent is guilty of conduct

unbecoming, insubordination and neglect of duty warranting the District's requested penalty of respondent's termination from her position.

Accordingly, summary decision is hereby granted to the District, and respondent Amber Gallo is hereby terminated from her position with the Gloucester County Special Services School District effective with the filing date of this decision.<sup>2</sup> A copy of this decision shall be forwarded to the State Board of Examiners for action against respondent's certificate(s) as it deems appropriate.

IT IS SO ORDERED.<sup>3</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: July 1, 2013

Date of Mailing: July 1, 2013

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<sup>2</sup> Pursuant to *N.J.A.C.* 6A:3-1.14(c), Commissioner decisions are deemed filed three days after the date of mailing to the parties.

<sup>3</sup> 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).