

IN THE MATTER OF THE SUSPENSION :  
OF THE TEACHING CERTIFICATE OF : COMMISSIONER OF EDUCATION  
TYARRA HUNTER, GRAY CHARTER : DECISION  
SCHOOL, ESSEX COUNTY. :  
\_\_\_\_\_ :

SYNOPSIS

In September 2007, an Order to Show Cause was served upon respondent – a tenured teacher – requiring her to show cause why her teaching certificate should not be suspended for unprofessional conduct pursuant to *N.J.S.A. 18A:26-10* and *N.J.S.A. 18A:28-8* for resigning her position as an elementary teacher without giving adequate notice.

This petitioner and six other similarly situated individuals charged that *N.J.S.A. 18A:26-10* and *N.J.S.A. 18A:28-8* did not apply to teachers in charter schools. By interlocutory order, affirmed by the Commissioner, the ALJ found that these provisions were applicable to charter school teachers. Here the ALJ found that: *N.J.S.A. 18A:26-10* prohibits a teaching staff member from ceasing to perform her duties contrary to the provisions of her contract with the charter school; and *N.J.S.A. 18A:28-8* requires that a tenured teaching staff member must give a charter school at least sixty days written notice of intention to relinquish his/her position. The ALJ concluded that: respondent ceased to perform her duties before the expiration of the term of her employment contrary to *N.J.S.A. 18A:26-10*; respondent failed to provide sixty days written notice of her intention to resign contrary to *N.J.S.A. 18A:28-8*; and respondent is therefore guilty of unprofessional conduct warranting a full one-year suspension of her certificate.

Upon independent review of the record, the Commissioner concurred with the ALJ’s conclusion that the respondent is guilty of unprofessional conduct pursuant *N.J.S.A. 18A:28-8*, and adopted the Initial Decision as the final decision in this matter. Respondent’s certificate is suspended for a period of one year from the date of the filing of this decision – a copy of which has been 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.

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The record and Initial Decision issued by the Office of Administrative Law (OAL) have been reviewed. Counsel for Ms. Hunter sought and received an extension of time within which to file exceptions to the Initial Decision and such exceptions were filed in accordance with the modified timeframe. Gray Charter School did not file reply exceptions.

Respondent's exceptions merely recast and reiterate her arguments advanced before the Administrative Law Judge (ALJ) below. In that all of these were presented and comprehensively discussed in the Initial Decision, they will not be revisited here.

Upon a full and independent review of the record – and according due deference to the ALJ's credibility determinations<sup>1</sup> – the Commissioner agrees with his conclusion that respondent, Tyarra Hunter, is guilty of unprofessional conduct – pursuant to *N.J.S.A.* 18A:28-8 – for failure to give proper notice before resigning from her position as a teacher at the

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<sup>1</sup> The Commissioner “may not reject or modify any findings of fact as to issues of credibility of lay witness testimony unless it is first determined from a review of the record that the findings are arbitrary, capricious or unreasonable or are not supported by sufficient, competent and credible evidence in the record.” *N.J.S.A.* 52:14B-10(c).

Gray Charter School.<sup>2</sup> The Commissioner further concurs with the ALJ's recommendation that – as a consequence of such conduct – respondent's teaching certificate be suspended for one year.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter for the reasons clearly articulated therein. Respondent's teaching certificate is hereby suspended for a period of one year, effective upon the date of this decision. A copy of this decision is being forwarded to the State Board of Examiners for the purpose of effectuating this decision.

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

COMMISSIONER OF EDUCATION

Date of Decision: June 22, 2009

Date of Mailing: June 23, 2009

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<sup>2</sup> In that the instant respondent has tenure status, the Commissioner does not reach to the ALJ's analysis of this matter under *N.J.S.A.* 18A:26-10 as this companion provision is intended to address differently situated groups of employees, *i.e.*, *non-tenured teaching staff members*.

<sup>3</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L.* 2008, *c.* 36.