

#212-15

IN THE MATTER OF THE SUSPENSION :  
OF THE TEACHING CERTIFICATE OF : COMMISSIONER OF EDUCATION  
EARL RUSH, SCHOOL DISTRICT OF THE :  
UNION COUNTY VOCATIONAL-TECHNICAL : DECISION  
SCHOOLS, UNION COUNTY :

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SYNOPSIS

On March 18, 2015, the petitioning school district served upon respondent an Order 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* for resigning his position on inadequate notice. The respondent failed to answer the order. Respondent was duly advised that, pursuant to *N.J.A.C. 6A:3-1.5(e)*, failure to respond would cause each allegation raised by the Board to be deemed admitted, and might result in summary decision by the Commissioner.

There being no response to the order to show cause, the Commissioner concluded that the allegations – which respondent has chosen not to deny – may be deemed admitted, and justify suspension of respondent’s certification. Accordingly, summary decision was granted to petitioner, and 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.

June 19, 2015

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For petitioner, Robert F. Varady, Esq. (LaCorte, Bundy, Varady & Kinsella)

No appearance by or on behalf of respondent

This matter was opened before the Commissioner of Education on March 18, 2015, by way of an Order to Show Cause served by petitioner (Union County Vocational-Technical School District) upon respondent (Earl Rush), requiring respondent to show cause why an order should not be entered suspending his teaching certificate pursuant to *N.J.S.A.* 18A:26-10 for resigning without giving the notice required by his contract with petitioner. By notice dated March 19, 2015, the Bureau of Controversies and Disputes (Bureau) acknowledged receipt of proof that the Order to Show Cause had been served upon respondent and directed respondent to answer within 20 days. A second acknowledgment was sent on April 8, 2015 to correct a potential typographical error.<sup>1</sup>

No answer having yet been received, on April 17, 2015, the Bureau sent respondent a final notice – via regular and certified mail – directing that he file an answer within ten days. The notice advised that, pursuant to *N.J.A.C.* 6A:3-1.5(e), failure to answer would cause each allegation in petitioner’s papers to be deemed admitted, and might result in summary decision by the Commissioner. The notice sent by certified mail was returned by the postal service as unclaimed;

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<sup>1</sup> The record reflects some confusion over whether respondent’s house number is 576 or 578. Therefore, the Bureau sent the acknowledgment and final notice to both addresses as explained herein.

however, the notice sent by regular mail was not returned. Due to some confusion regarding respondent's house number, another final notice was sent to respondent – via regular and certified mail – on May 22, 2015. The certified mailing was claimed on May 23, 2015, as indicated by the return receipt received by the Bureau, and the notice sent by regular mail was not returned. No answer to the Order to Show Cause has been filed as of this date.

Having reviewed petitioner's affidavit in this matter – which states that respondent ceased working as a teacher without giving the 60 days written notice required by his employment contract – and noting that respondent has not denied the allegations therein, the Commissioner deems such allegations admitted pursuant to *N.J.A.C. 6A:3-1.5(e)* and further deems them sufficient to justify suspension of respondent's teaching certification pursuant to *N.J.S.A. 18A:26-10*.

Accordingly, summary decision is hereby granted to petitioner, and respondent's teaching certification is 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>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: June 19, 2015

Date of Mailing: June 19, 2015

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<sup>2</sup> Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Superior Court, Appellate Division.