

#201-16

IN THE MATTER OF THE SUSPENSION :
OF THE TEACHING CERTIFICATE : COMMISSIONER OF EDUCATION
OF JAMES MESSINA, SCHOOL DISTRICT :
OF THE CITY OF HOBOKEN, : DECISION
HUDSON COUNTY. :

SYNOPSIS

In February 2016, the Commissioner of Education issued an Order to Show Cause requiring respondent 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 without giving the required 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.

The Commissioner concluded that, pursuant to *N.J.A.C.* 6A:3-1.5(e), the allegations – which respondent has chosen not to deny – may be deemed admitted. Accordingly, the Commissioner granted summary decision to the petitioner and forwarded a copy of this decision to the State Board of Examiners for implementation of the suspension.

<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>

May 31, 2016

IN THE MATTER OF THE SUSPENSION :
OF THE TEACHING CERTIFICATE : COMMISSIONER OF EDUCATION
OF JAMES MESSINA, SCHOOL DISTRICT :
OF THE CITY OF HOBOKEN, : DECISION
HUDSON COUNTY. :

For Petitioner, Marie-Laurence Fabian, Esq.

No appearance by or on behalf of respondent

This matter was opened before the Commissioner of Education on February 17, 2016, by way of an Order to Show Cause served by petitioner, the Hoboken Board of Education (Board), upon the respondent, James Messina, 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 February 18, 2016, 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.

No answer having yet been received, on March 15, 2016, the Bureau sent respondent a second 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 certified mail return receipt card indicates that the March 15, 2016 notice was delivered on March 17, 2016.

No answer having yet been received, on April 4, 2016, 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 certified mail return receipt card indicates that the April 4, 2016 notice was delivered on April 7, 2016. No answer to the Order to Show Cause has been filed as of this date.

The affidavit submitted by the petitioner in this matter states that: the respondent entered into a contract with the petitioner for the 2015-2016 school year; on January 4, 2016, the respondent informed the district that he would not be fulfilling the term of his employment; and the respondent resigned effective January 4, 2016, giving the district no notice. The respondent has not denied the allegations therein; therefore, the Commissioner deems such allegations to be 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.*

COMMISSIONER OF EDUCATION

Date of Decision: May 31, 2016

Date of Mailing: May 31, 2016

* 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