

#363-16 (OAL Decision: Not yet available online)

IN THE MATTER OF THE SUSPENSION :
OF THE TEACHING CERTIFICATES : COMMISSIONER OF EDUCATION
OF SAMUEL MCDONOUGH, SCHOOL : DECISION
DISTRICT OF THE TOWNSHIP :
OF DELRAN, BURLINGTON COUNTY. :

SYNOPSIS

In October 2015, 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 notice required by his contract with the Board. A hearing in the matter was scheduled for June 1, 2016 at the Office of Administrative Law (OAL). Subsequently, demands for admissions were sent to the respondent via certified and regular mail. No response was received; accordingly, those admissions were deemed admitted. Respondent then failed to appear at the OAL for the scheduled hearing on June 1, 2016. On June 2, 2016, correspondence was received at the OAL advising that the respondent could not attend the scheduled hearing because of a medical emergency with his mother. A telephone conference was then scheduled for August 17, 2016 and written notice was sent to all parties. Respondent failed once again to appear for the telephone conference, and offered no explanation, notwithstanding the opportunity to do provide same.

Upon review, the Commissioner found the respondent guilty of unprofessional conduct pursuant to *N.J.S.A. 18A:26-10* for resigning his position without giving the 60-day notice required in his employment contract. Accordingly, the 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.
--

October 20, 2016

IN THE MATTER OF THE SUSPENSION :
OF THE CERTIFICATES OF : COMMISSIONER OF EDUCATION
SAMUEL MCDONOUGH, SCHOOL : DECISION
DISTRICT OF THE TOWNSHIP, :
OF DELRAN, BURLINGTON COUNTY. :

The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed, as have the exceptions filed pursuant to *N.J.A.C. 1:1-18.4* by the Delran School District. This matter involves a determination as to whether respondent Samuel McDonough's certificates should be suspended pursuant to *N.J.S.A. 18A:26-10* for resigning without giving the notice required by his contract with the Delran Board of Education. In the Initial Decision, the Administrative Law Judge (ALJ) found that since the respondent failed to respond to the District's request for admissions, the admissions demanded by the Board are deemed admitted. The respondent also failed to appear at the scheduled August 17, 2016 telephone conference; therefore, pursuant to *N.J.A.C. 1:1-14.4*, the ALJ returned the file to the Commissioner.¹ The respondent filed no explanation for his failure to appear, notwithstanding the opportunity to do so.

Upon a comprehensive review of this matter, the Commissioner finds that the respondent is guilty of unprofessional conduct pursuant to *N.J.S.A. 18A:26-10* because he breached his employment agreement with the Board when he resigned without giving the 60 days' notice

¹ Despite the fact that the ALJ found that the admissions were deemed to be true, she did not make a determination as to whether the respondent's certificates should be suspended under *N.J.S.A. 18A:26-10*.

required by his contract. Based on the admissions, it is clear that the respondent did not provide the Board with requisite 60 days' notice required before resigning from his teaching position. The respondent entered into a contract with the Board which provided for his employment as a teacher from September 1, 2015 through October 2, 2015. The employment contract allowed the parties to terminate the agreement as long as they gave the other party 60 days' notice in writing. On August 22, 2015, the respondent informed the Board that he was terminating his contract because he had accepted another long-term substitute teaching position with another school district. The respondent has not denied that he failed to provide the Board with 60 days' notice prior to resigning, nor did he appear at the proceeding at the OAL.

Accordingly, respondent's teaching certificates are 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.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: October 20, 2016

Date of Mailing: October 20, 2016

² 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*).