

IN THE MATTER OF THE SUSPENSION :
 OF THE TEACHING CERTIFICATES : COMMISSIONER OF EDUCATION
 OF DYLAN JERYC, NORTH HUDSON : DECISION
 ACADEMY, HUDSON COUNTY. :

SYNOPSIS

In December 2017, 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 petitioner, a private school for students with disabilities. The respondent submitted a response, and the matter was transmitted to the OAL. Respondent subsequently failed to appear at a peremptory hearing on the issue of suspension of his certificate, and failed to provide an explanation for his failure to appear.

The ALJ found that: respondent failed to appear for a peremptory hearing on March 27, 2018; the attorney for the North Hudson Academy, appeared and was ready to proceed with the hearing; the respondent failed to provide any explanation for his failure to appear at the peremptory hearing. The ALJ concluded that, given respondent's failure to appear, the matter was no longer a contested case before the OAL. The ALJ therefore ordered the matter dismissed for failure to appear.

Upon review of the record, the Commissioner rejected the Initial Decision of the OAL, and granted summary decision to the petitioner. In so doing, the Commissioner found, *inter alia*, that: a dismissal was not appropriate in this situation, as petitioner brought the action and should have presented ex parte proofs on the merits at hearing, pursuant to *N.J.A.C.* 1:1-14.4(d); and the record makes clear that respondent ceased to perform his duties before the expiration of the term of his employment. Accordingly, the Commissioner ordered the suspension of the respondent's teaching certificate 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.

<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 3, 2018

IN THE MATTER OF THE SUSPENSION :
OF THE TEACHING CERTIFICATES : COMMISSIONER OF EDUCATION
OF DYLAN JERYC, NORTH HUDSON : DECISION
ACADEMY, HUDSON COUNTY. :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

By way of procedural background, this matter was opened via an order to show cause served by petitioner North Hudson Academy (Academy), 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 the Academy. Respondent submitted a response and the matter was transmitted to the OAL. Thereafter, respondent failed to appear at a prehearing conference on February 27, 2018 and called the following day to say he was unable to attend. Respondent then failed to appear at a peremptory plenary hearing on the issue of the suspension of his teaching certificate on March 27, 2018, and failed to provide an explanation for his failure to appear. The Administrative Law Judge (ALJ) issued an Initial Decision indicating that this matter is no longer a contested case and dismissed the matter for failure to appear.

Upon review, the Commissioner finds that a dismissal of this matter is not appropriate in this situation, as the order to show cause was filed by the Academy, not respondent. Under this circumstance, the Academy should have presented *ex parte* proofs on the merits, pursuant to *N.J.A.C. 1:1-14.4(d)*. Review of the affidavit submitted by the Academy, as well as the employment agreement entered into by the Academy and respondent in June 2017, indicates that: respondent entered into a contract for 2017-2018 school year; the employment agreement states that if respondent fails to complete the term of the agreement for the school year, that he shall be assumed guilty of unprofessional conduct;

on September 5, 2017, respondent sent written notice that he was resigning from the Academy and that his last day would be November 6, 2017; and respondent did not report to work on November 7, 2017. In his answer, respondent does not dispute the terms of his employment contract or the dates of his employment with the Academy. Instead, respondent argues that he needed to leave his employment with the Academy to be closer to his home and family, as his total commute was nearly three hours each day. He adds that the work environment at the Academy was stressful and he disagreed with some of the Academy's policies and practices. The record makes clear that respondent ceased to perform his duties before the expiration of the term of his employment. As such, the Commissioner finds that respondent is guilty of unprofessional conduct and his teaching certificate may be suspended, pursuant to *N.J.A.C. 18A:26-10*.

Accordingly, the Initial Decision of the OAL is rejected for the reasons set forth herein. Summary decision is hereby granted to the Academy, 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.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 3, 2018

Date of Mailing: May 3, 2018

¹ 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)*.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. EDU 01343-18

AGENCY DKT. NO. 10-1/18

**IN THE MATTER OF THE TEACHING
CERTIFICATES OF DYLAN JERYC,
NORTH HUDSON ACADEMY,
HUDSON COUNTY.**

Dylan Jeryc, appearing pro se

Robert S. Feder, Esq. on behalf of North Hudson Academy

Record Closed: March 27, 2018

Decided: March 28, 2018

BEFORE **CARIDAD F. RIGO**, ALAJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On or about November 22, 2017, the Commissioner of Education Office of Controversies and Disputes received a Motion for an Order to Show, Affidavit and Proof of Service filed by the North Hudson Academy a private school for students with disabilities, seeking the suspension of Dylan Jeryc's teaching certificates for resigning on inadequate notice, pursuant to N.J.S.A. 18A:26-10.

On December 8, 2017, the Commissioner of Education Kimberley Harrington signed an Order to Show Cause demanding Dylan Jeryc to show cause before the Commissioner of Education by written answer within 20 days of receipt of the Order why an Order should not be entered suspending Dylan Jeryc's teaching certificate for unprofessional conduct.

On January 16, 2018, Dylan Jeryc in a letter addressed to the Commissioner responded, the letter was not signed.

On January 24, 2018, the Commissioner sent the matter to the Office of Administrative Law (OAL), for a Fact-Finding hearing and the matter was assigned to the hearing stated Administrative Law Judge.

On February 6, 2018, the OAL sent a notice of a prehearing conference to be held on February 27, 2018, this date was agreed to by this tribunal and the parties. On February 27, 2018, North Hudson Academy and its counsel appeared, Dylan Jeryc did not. On February 28, 2018, the undersigned received a message that Dylan Jeryc called to say he was unable to attend the hearing on February 27, 2018.

On March 1, 2018, another notice was sent to the parties advising that the matter was going to be heard on March 27, 2018, and that it was to be a **peremptory** plenary hearing on the issue of the suspension of the teaching certificate.

On March 27, 2018, Robert Feder, Esq., and a representative of the North Hudson Academy appeared and ready to proceed with the hearing. Dylan Jeryc did not appear nor did he call and no papers or notices were received in response to the Order to Show Cause or the peremptory hearing.

Because Dylan Jeryc again failed to appear for the peremptory hearing date and has had an opportunity to present his case, I **CONCLUDE** that this matter is no longer a contested case before the Office of Administrative Law.

It is **ORDERED** that this matter be **DISMISSED** for failure to appear.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

March 28, 2018

DATE



CARIDAD F. RIGO, ALJ

Date Received at Agency: March 28, 2018

Date Mailed to Parties:

lr