

**New Jersey Commissioner of Education**

**Final Decision**

In the Matter of the Tenure Hearing of  
Kenia Penalva, School District of the  
Town of West New York, Hudson County.

For the Petitioner, Nashali A. Rose, Esq.

No appearance by or on behalf of Respondent, Kenia Penalva

This matter was opened before the Commissioner of Education on June 22, 2020, through tenure charges of incapacity, unbecoming conduct and other just cause certified by Clara Brito Herrera, Superintendent of the West New York School District (“District”), together with supporting evidence against respondent, Kenia Penalva, a tenured custodian in the District’s employ. The District provided respondent with written notice of such certification at the respondent’s last known address on June 22, 2020.

On June 24, 2020, the Commissioner directed the respondent, via regular mail to file an answer to the charges. This communication clearly provided notice to respondent that, pursuant to *N.J.A.C. 6A:3-5.3 and 6A:3-5.4*, an individual against whom tenure charges are certified “*shall have 15 days from the day such charges are filed with the Commissioner to file a written response to the charges with the Commissioner.*” The notice also states that the failure to answer within the prescribed period, absent granting of an extension for good cause shown, would result in the charges being deemed admitted. No reply to the tenure charges was received from or on behalf of the respondent.

The certified tenure charges and statement of supporting evidence filed by the District in this matter indicate that throughout 2019 and up until February 27, 2020 the respondent has been out on medical leave because she has been unable to perform her custodial duties. The respondent is no longer on approved leave and she has not returned to work. Deeming the allegations to be admitted and noting that the respondent has failed to respond to the charges certified against her, the Commissioner finds that the District's charges of incapacity and other just cause have been proven and warrants the respondent's dismissal. Accordingly, summary decision is hereby granted to the District, and the respondent is dismissed from her tenured position with the District.

IT IS SO ORDERED.\*

INTERIM COMMISSIONER OF EDUCATION

Date of Decision: August 10, 2020  
Date of Mailing: August 12, 2020

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\* 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).