

New Jersey Commissioner of Education

Final Decision

In the Matter of the Suspension of the Teaching Certificates of Asem Ahmed, Board of Education of the Passaic County Manchester Regional High School District, Passaic County.

Synopsis

The petitioning Board sought the suspension of the teaching certificates of respondent – a non-tenured Art teacher – following his resignation without providing the 60-day notice required under *N.J.S.A. 18A:26-10*. Respondent began working for the Board on February 21, 2023, under an Employment Agreement that extended through June 30, 2023. On March 23, 2023, the respondent submitted a letter of resignation with an effective date of May 24, 2023, initially providing the required 60-day notice. However, after meeting with the Superintendent on March 27th and verbally agreeing to finish out the school year, the respondent abruptly resigned effective March 28th, leaving no lesson plans or information to assist his replacement.

The ALJ found, *inter alia*, that: there is no question that the respondent ceased to perform his duties before the expiration of the term of employment; further, there is no question that respondent clearly understood the 60-day notice requirement in his contract, as he had structured his starting date with the Board based on fulfilling his 60-day notice obligation to his previous employer; respondent compounded his contractual breach by failing to provide lesson plans or other transitional materials to assist substitute teachers who were hired to cover respondent’s classes after his resignation; and respondent’s resignation with only one day of notice was highly unprofessional. The ALJ concluded that the respondent’s teaching certificate should be suspended for the maximum period allowed by *N.J.S.A. 18A:26-10*. Accordingly, the ALJ ordered respondent’s certificate suspended for a period of one year.

Upon review, the Commissioner concurred with the ALJ’s findings and conclusions, and adopted the Initial Decision as the final decision in this matter. Respondent’s certificates were suspended for one year from the filing date of this decision, a copy of which has been forwarded to the State Board of Examiners for implementation of the suspension.

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.

355-23
OAL Dkt. No. 06030-23
Agency Dkt. No. 180-7/23

New Jersey Commissioner of Education

Final Decision

In the Matter of the Suspension of the
Teaching Certificates of Asem Ahmed,
Board of Education of the Passaic County
Manchester Regional High School District,
Passaic County.

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

Upon review, the Commissioner concurs with the Administrative Law Judge that respondent's resignation from employment with only one day's notice justifies suspension of respondent's teaching certificates pursuant to *N.J.S.A. 18A:26-10* and *N.J.S.A. 18A:28-8*.

Accordingly, the Board's motion for summary decision is granted, and 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.¹


ANGELINA ALLEN-McMILLAN, J.D.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 30, 2023
Date of Mailing: December 1, 2023

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. EDU 06030-23

AGY. DKT. NO. 180-7/23

**IN THE MATTER OF THE SUSPENSION OF
THE TEACHING CERTIFICATES OF ASEM
AHMED, PASSAIC COUNTY MANCHESTER
REGIONAL HIGH SCHOOL DISTRICT
BOARD OF EDUCATION.**

Rodney T. Hara, Esq., appearing for Petitioner, Passaic County Manchester Regional High School District Board of Education (Fogarty & Hara, attorneys)

No appearance by respondent, **Asem Ahmed**

Record Closed: October 23, 2023

Decided: October 25, 2023

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner filed a Verified Petition together with an Order to Show Cause (OTSC) with the Office of Controversies and Disputes of the New Jersey Department of Education on June 29, 2023. Copies of the same were sent to the Respondent.

The OTSC was signed by the Acting Commissioner of Education and the same was served upon the Respondent on July 6, 2023.

The matter was transferred to the Office of Administrative Law (OAL) as a contested case on July 11, 2023.

A prehearing conference was held on July 24, 2023, and a prehearing Order was entered on the same date.

Petitioner requested a telephone conference to address a discovery issue. That telephone conference was held on October 12, 2023. Petitioner dialed in. Respondent did not. Respondent was provided with notice of the conference to his correct email address.

Petitioner filed a motion on October 20, 2023 to suppress Respondent's answer and to bar his testimony for failure to provide discovery. Respondent did not file a response.

The hearing was held on October 23, 2023. The Notice of Hearing specified 9:00 a.m. as the start time and the Office of Administrative Law at 33 Washington Street, Newark, New Jersey as the location. Petitioner and counsel appeared timely. Respondent did not appear at 9:00 a.m. The undersigned allowed thirty minutes for Respondent to appear. He did not appear. No explanation, or adjournment request, was received by Respondent.

In accordance with N.J.A.C. 1:1-10.5 and N.J.A.C. 1:1-14.14, Petitioner's motion to suppress Respondent's Answer was granted on the record. The request in the motion to bar Respondent's testimony was moot as he failed to appear.

In accordance with N.J.A.C. 1:1-14.4(d) the matter proceeded as an ex parte presentation of Petitioner's proofs.

FINDINGS OF FACT

Based upon the evidence presented at the hearing as well as on the opportunity to observe the witness and assess his credibility, I **FIND** the following:

1. Respondent, Asem Ahmed, holds a Teaching Certificate, 01686194, in Art instruction. (P-1)
2. Mr. Ahmed was employed by Passaic County Manchester Regional High School District Board of Education as a Teacher of Art in accordance with an Employment Agreement. Said employment was to commence on February 21, 2023, through June 30, 2023. (P-2)
3. In accordance with the Employment Agreement, either party could cancel said agreement with sixty (60) days prior notice. (P-2)
4. Mr. Ahmed's teaching class schedule was Monday through Friday, commencing at 7:45 a.m. to 2:49 p.m. The schedule included six (6) class periods, a period for PROF, a period for PREP and a period for LUNCH. (P3)
5. When Ahmed was interviewed by Superintendent Gary Lubisco, Jr., he advised the Superintendent that he could not start immediately as he had to honor his sixty (60) day notice requirement to his previous employer. Accordingly, his start date was set as February 21, 2023. The art teacher position had become vacant on January 4, 2023, after that teacher had satisfied her sixty (60) day notice requirement when she resigned. (Lubisco testimony, 10/23/23 @ 9:38 – 9:39 a.m.)
6. Mr. Ahmed was well aware that he was required to provide sixty (60) days prior notice should he resign. He indicated the same in his interview with Superintendent Lubisco. (Lubisco testimony, 10/23/23 @ 9:41)
7. The prior art teacher, prior to her departure, provided the district with lesson plans for her successor to continue art instruction. (Lubisco testimony, 10/23/23 @ 9:39 a.m.)
8. On March 23, 2023 Mr. Ahmed submitted a letter of resignation to John Coviello, effective March 24, 2023 with sixty (60) days notice. (P-4)
9. Superintendent Lubisco met with Mr. Ahmed on March 27, 2023 to discuss his resignation. During said meeting Mr. Ahmed agreed to finish out

the school year, as opposed to the required sixty (60) day notice, which would end on May 24, 2023. (Lubisco testimony, 10/23/23 @ 9:45 – 9:46 a.m.)

10. Superintendent Lubisco confirmed this conversation in an email dated March 27, 2023, to Mr. Coviello and Ms. Moser. (P-5)

11. Thereafter, Superintendent Lubisco learned that Mr. Ahmed advised his supervisor that his last day was March 28, 2023. (P-6 and Lubisco testimony, 10/23/23 @ 9:49 – 9:50 a.m.)

12. Superintendent Lubisco, via email dated March 29, 2023, informed Mr. Ahmed that he was contractually required to work until May 24, 2023, and that failure to do so could result in the suspension of his teaching certificate for up to one year. (P-6)

13. Thereafter, Superintendent Lubisco telephoned Mr. Ahmed on March 31, 2023 regarding the abandonment of his teaching position, wherein Mr. Ahmed said he would think about his contractual obligation over the weekend. Superintendent Lubisco confirmed the conversation via email dated March 31, 2023. (P-7 and . (Lubisco testimony, 10/23/23 @ 9:53 – 9:54 a.m.)

14. Superintendent Lubisco followed up with another email, dated April 4, 2023 advising that a decision by Mr. Ahmed was needed that date. (P-8 and . (Lubisco testimony, 10/23/23 @ 9:55 – 9:56 a.m.)

15. Superintendent Lubisco received no response from Mr. Ahmed. (Lubisco testimony, 10/23/23 @ 9:55 – 9:56 a.m.)

16. The failure of Mr. Ahmed to fulfill his contractual obligation caused a significant strain on the District. Mr. Ahmed did not provide lesson plans for his successor. This is outside the norm of professional conduct for teachers. (Lubisco testimony, 10/23/23 @ 9:57 – 9:59 a.m.)

LEGAL ANALYSIS AND CONCLUSION

In his several emails to Mr. Ahmed, Superintendent Lubisco cites N.J.S.A. 18A:28-8, which states:

Any teaching staff member, under tenure of service, desiring to relinquish his position shall give the employing board of education at least 60 days written notice of his intention, unless the board shall approve of a release on shorter notice and if he fails to give such notice he shall be deemed guilty of unprofessional conduct and the commissioner may suspend his certificate for not more than one year.

However, the record clearly demonstrates that Mr. Ahmed was a non-tenured teacher. His employment agreement states as much, referring to him as a non-tenured certificated employee. Accordingly, N.J.S.A. 18A:28-8 is not the applicable statute.

N.J.S.A. 18A:26-10 would be the controlling statute, which states in pertinent part:

Any teaching staff member employed by a board of education or an approved private school for the disabled, who shall, without the consent of the board or, in the case of an approved private school for the disabled, the board of directors of the school, cease to perform his duties before the expiration of the term of his employment, shall be deemed guilty of unprofessional conduct, and the commissioner may, upon receiving notice thereof, suspend his certificate for a period not exceeding one year.

In the instant matter, there is no question that Mr. Ahmed ceased to perform his duties before the expiration of the term of employment. He failed to provide the requisite sixty (60) day prior notice as spelled out in his employment contract. He was well aware he was required to provide such notice. The only question remaining is to what, if any suspension would be appropriate.

Mr. Ahmed, by simply leaving his teaching position, placed the District in a very difficult position, as described by the testimony of Superintendent Lubisco. The District

was compelled to hire substitute teachers and utilize other methods which provided a lesser learning experience for the student. He compounded his contractual breach by failing to provide any transitional materials. He did nothing to help smooth the transition. He did not provide lesson plans which could have been used by the substitute teachers. He acted in an extremely unprofessional manner.

Based upon the foregoing I **CONCLUDE** that Respondent's teaching certificate should be suspended for the maximum period allowable by N.J.S.A. 18A:26-10.

ORDER

It is hereby **ORDERED** that the Certificate of Respondent, Asem Ahmed, be suspended for a period of one year.

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.



October 25, 2023
DATE

THOMAS R. BETANCOURT, ALJ

Date Received at Agency: _____

Date Mailed to Parties:
db _____

APPENDIX

List of Witnesses

For Petitioner:

Gary Lubisco, Jr.

For Respondent:

None

List of Exhibits

For Petitioner:

- P-1 Teaching Certificates of Respondent, Asem Ahmed
- P-2 Employment Agreement
- P-3 Email from John Coviello dated June 27, 2023
- P-4 Formal resignation of Asem Ahmed
- P-5 Email from Gary Lubisco, Jr. dated March 27, 2023
- P-6 Email from Gary Lubisco, Jr. dated March 29, 2023
- P-7 Email from Gary Lubisco, Jr. dated March 31, 2023
- P-8 Email from Gary Lubisco, Jr. dated April 4, 2023

For Respondent:

None

Motion Papers:

For Petitioner:

Letter brief dated October 20, 2023 with motion to suppress Respondent's Answer and preclude Respondent's testimony with Exhibits A and B

Proof of Filing and Service

Certification of Rodney T. Hara, Esq, with Exhibits A through D

For Respondent:

None

Pleadings

Order to Show Cause (OTSC)

Verified Petition

Answer