

EDU #10220-00
C # 459-01
SB # 45-01

IN THE MATTER OF THE SUSPENSION :
OF THE TEACHING CERTIFICATE OF : STATE BOARD OF EDUCATION
ELAINE BROWN, STATE-OPERATED : DECISION
SCHOOL DISTRICT OF THE CITY OF :
NEWARK, ESSEX COUNTY. :

Decided by the Commissioner of Education, November 26, 2001

For the Respondent-Appellant, Elaine Brown, pro se

For the Petitioner-Respondent, Joseph Verga, Esq.

Elaine Brown (hereinafter “respondent”) was employed by the State-operated School District of the City of Newark (hereinafter “District” or “State-operated District”) as an elementary school teacher for the 2000-01 school year commencing on September 5, 2000, and was assigned to teach third grade. The respondent’s employment contract provided that either party could terminate the contract by providing 30 days written notice. However, in a letter dated September 18, 2000, the respondent advised the principal of her school that she was resigning from her position, effective immediately. The respondent’s last day in her classroom was Friday, September 15. When the respondent did not return, the State-operated District sought suspension of

her teaching certificate for unprofessional conduct pursuant to N.J.S.A. 18A:26-10 as a result of her failure to provide 30 days notice of her resignation.¹

On October 4, 2001, an Administrative Law Judge (“ALJ”), noting that there was no dispute that the respondent had failed to provide the requisite 30 days notice to the District, recommended that the respondent’s teaching certificate be suspended for six months. The ALJ found that the respondent’s resignation “caused a major disruption of the continuity of instruction for these third graders because they were suddenly left no [sic] only without a teacher but subjected to new and different personalities on an almost daily basis until a permanent substitute could be found and then they were required to adjust yet another time when a regular teacher was found.” Initial Decision, slip op. at 4. Based upon her observation of the respondent during the hearing, the ALJ observed that “[i]t was clear to me that she was overwhelmed by the situation in which she found herself; however, I could FIND no shred of concern for the educational well-being of the children she left in the lurch.” Id.

On November 26, 2001, the Commissioner adopted the ALJ’s conclusion that “the District has demonstrated that respondent’s undeniable failure to comply with the provisions of N.J.S.A. 18A:26-10 is sufficient to warrant the suspension of her teaching certificate.” Commissioner’s Decision, slip op. at 8. However, the Commissioner increased the penalty recommended by the ALJ. The Commissioner found that there was nothing on the record “to verify that the respondent, for valid medical reasons or

¹ N.J.S.A. 18A:26-10 provides that:

Any teaching staff member employed by a board of education, who shall, without the consent of the board, 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.

legitimate safety concerns was unable to stay an additional 30 days” and had “demonstrated no attempt to either meet her 30-day obligation or to arrive at another mutually-acceptable time-frame for her departure.” Id. at 9 (emphasis in original). Stressing that the respondent had abandoned her teaching position just days into the 2000-01 school year, the Commissioner directed that the respondent’s certificate be suspended for a period of one year from the date of his decision.

The respondent filed the instant appeal to the State Board. In support of her appeal, the respondent contends that the loss of her teaching certificate “would prove to be truly devastating and would certainly cause ‘hardship’ to my children. I am the only means of support for them and they rely entirely upon me for their basic needs...” Appeal Brief, at 2. The respondent maintains that she was “scared away” from her position in Newark, id. at 1, claiming that she was threatened by students in her class and was experiencing so much fear during the period of her employment that she “could not function normally.” Id. at 2. She disputes the ALJ’s finding, which was adopted by the Commissioner, that she had shown no concern for the students in her class, stating in her appeal brief that “there certainly were children I was truly concerned about and regretted deeply over having to leave so abruptly.” Id.

In its response, the State-operated District relates that “[b]ecause of Brown’s abrupt departure, the District did not have the expected thirty-day period to seek a permanent replacement for her. Instead, the District was forced to employ a string of temporary substitutes until December, when a permanent substitute teacher was assigned to Brown’s third grade class. Not until January 2001 was a permanent teacher hired to teach Brown’s class for the remainder of the school year.” Answer Brief, at 2.

The District points out that all the respondent had to do was “abide by her contract and give thirty-days’ notice,” id. at 3, and contends that “[i]nstead of suddenly resigning, Brown could have pursued many avenues to alleviate her problems. She could have requested assistance from her administrators, a transfer to another school, or, as a last resort, a sick leave.... Id. at 2.

On March 6, 2002, the State Board referred this matter back to the Legal Committee after a motion to affirm the Commissioner’s decision in its entirety failed.

After careful examination of the record, we affirm the Commissioner’s determination that the State-operated District has demonstrated that the respondent’s conduct was sufficient to warrant the suspension of her teaching certificate pursuant to N.J.S.A. 18A:26-10. However, we modify the penalty imposed by the Commissioner.

The record indicates that the position in Newark was the respondent’s first full-time experience teaching in the public schools. She had previously served as a substitute teacher and as a teacher in a parochial school. The ALJ, who had the opportunity to observe the respondent at the hearing, recognized the seriousness of the respondent’s action but also found that she had been overwhelmed by the situation. She therefore concluded that a suspension of the respondent’s teaching certificate for six months was a sufficient penalty.

As previously indicated, the Commissioner increased the suspension to one year, the maximum penalty authorized by N.J.S.A. 18A:26-10. That suspension commenced on November 26, 2001, the date of the Commissioner’s decision. We find such a penalty to be unnecessarily harsh in this case. By virtue of the Commissioner’s decision, the respondent would not be permitted to be employed under her teaching

certificate until late November 2002, severely limiting her ability to obtain a teaching position for the 2002-03 school year. Giving due consideration to the particular circumstances of this matter, while also recognizing the gravity of the respondent's action and the effect on the children who had been in her charge, we conclude that a nine-month suspension is severe enough to impress upon her the seriousness of her action while still giving her the opportunity to obtain gainful employment as a teacher at the commencement of the 2002-03 school year.

Consequently, we affirm the Commissioner's determination that the respondent's conduct warranted suspension of her teaching certificate, but we modify the penalty imposed by the Commissioner and direct that the respondent's certificate be suspended for a period of nine months from the date of the Commissioner's decision.

June 5, 2002

Date of mailing _____