

#259-05 (No OAL Decision)

IN THE MATTER OF THE SUSPENSION :

OF THE TEACHING CERTIFICATE OF :

DIRK DOMINICK, BOARD OF : COMMISSIONER OF EDUCATION

EDUCATION OF THE BOROUGH OF : DECISION

PARAMUS, BERGEN COUNTY. :

SYNOPSIS

The Board filed a Motion for an Order to Show Cause, seeking suspension of respondent's instructional certificate for unprofessional conduct stemming from his failure to provide adequate notice of resignation pursuant to *N.J.S.A. 18A:26-10*.

The Commissioner issued an Order directing respondent to show cause why further order should not be entered suspending his certificate for unprofessional conduct. Based on respondent's failure to defend himself against the Show Cause Order allegations, each allegation against the respondent was deemed to be admitted.

Therefore, the Commissioner orders that respondent's instructional certificate be suspended for a period of one year commencing as of the date of this decision, and forwards the matter to the State Board of Examiners for the purpose of effectuating this order and taking such further action, if any, as it may deem appropriate.

<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>

AGENCY DKT. NO. 128-5/05

IN THE MATTER OF THE SUSPENSION :
OF THE TEACHING CERTIFICATE OF :
DIRK DOMINICK, BOARD OF : COMMISSIONER OF EDUCATION
EDUCATION OF THE BOROUGH OF : DECISION
PARAMUS, BERGEN COUNTY. :

For Petitioner, Steven M. Fleischer, Esq. (Sills, Cummis, Epstein & Gross)

For Respondent, Dirk Dominick, *Pro Se*

On May 26, 2005, the Paramus Board of Education (Board) filed before the Commissioner of Education a copy of a letter indicating on its face that an Order to Show Cause, signed by the Commissioner on May 17, 2005, and an accompanying affidavit were mailed by regular and certified mail to respondent Dirk Dominick notifying him that he had 20 days to submit a written answer addressing why an Order should not be entered suspending his teaching certificate for unprofessional conduct, pursuant to *N.J.S.A. 18A:26-10*.¹ Respondent did not submit an answer within the time provided. Accordingly, on June 24, 2005, the Director of the Bureau of Controversies and Disputes sent a second and final notice to respondent advising him that, should an answer not be filed within ten days of receipt of the June 24 letter, the Commissioner may decide this matter by summary decision pursuant to *N.J.A.C. 6A:3-1.12*.²

¹ The Board subsequently provided a copy of the “green card” signed by respondent confirming receipt of the certified mail.

² The certified mail “green card” indicates that respondent received this letter on June 27, 2005.

In that respondent has failed to file an answer to the Order to Show Cause or to respond in any manner, the Commissioner has determined to decide this matter by summary decision, pursuant to his discretionary authority under *N.J.A.C. 6A:3-1.12*.

The following facts are found to be true, based on the undisputed affidavit of Joseph P. Lupo, Assistant to the Superintendent/Human Resources, Paramus School District:

1. On August 16, 2005, respondent signed an Employment Contract (Contract) to serve as a Latin teacher at Paramus High School from September 1, 2004 through June 30, 2005.
2. The Contract provides that either party may terminate the Contract, but only with 60 days' written notice.
3. On March 14, 2005, respondent announced to his classes that March 15, 2005 would be his last day.
4. Respondent did not notify the Board that he would be resigning prior to March 14, 2005.
5. At a meeting on March 15, 2005, the Assistant to the Superintendent/Human Resources and the high school principal advised the respondent that, should he not honor his commitment to complete the 2004-2005 school year or at least honor his 60-day notification period, the District would seek all appropriate recourse available, including suspending his license based on abandonment of position.
6. At the March 15, 2005 meeting, the Assistant to the Superintendent/Human Resources requested that respondent reconsider his decision in that his departure would cause disruption to the school system and negatively impact his students.
7. Upon conclusion of the March 15, 2005 meeting, respondent exited the building, thus abandoning his duties at the close of the school day.
8. On March 21, 2005, the superintendent of schools received a letter from respondent, dated March 8, 2005, explaining that he was leaving his position because he found the coursework associated with his certification program too burdensome, and that he did not feel like continuing.

9. Respondent did not provide 60 days' notice of his intent to resign on March 15, 2005.
10. On April 11, 2005, the Board unanimously voted in the affirmative to refuse respondent's resignation.
11. "Respondent's abandonment of his position caused the Board to suffer the loss of a permanent, certified classroom instructor," requiring the Board to attempt to secure an appropriate substitute Latin instructor in the middle of the school year, and also caused the students who attend Paramus High School to suffer a serious disruption in their academic program.

(Affidavit of Joseph P. Lupo at 1-3)

Pursuant to *N.J.S.A.* 18A:26-10, the Commissioner has both the authority and the discretion to suspend a teacher's certificate for a period of up to one year for ceasing to perform his duties before the expiration of his employment without consent of the Board. The Commissioner recognizes that "[t]he obvious purpose of *N.J.S.A.* 18A:26-10 is to provide notice to the school so that a suitable replacement can be hired without adversely impacting students.***" (citations omitted) (*Penns Grove-Carneys Point Board of Education v. Leinen*, 94 *N.J.A.R.* 2d (EDU) 405, 407) In the instant matter, the Board claims that respondent's lack of adequate notice negatively affected his students by causing a serious disruption in their academic program. Moreover, the Board notes that respondent's lack of notice required that the Board find an appropriate substitute Latin teacher in the middle of the school year. However, even if the Board were able to find a replacement quickly, such replacement would not negate respondent's unprofessional conduct. (*See In the Matter of the Suspension of the Teaching Certificate of Patricia Aiken, School District of the Township of East Amwell, Hunterdon County*, 1986 *S.L.D.* 2816, 2821.) "The sudden departure of a teacher who has been working with a group of pupils for four months results in a disruption to the educational program to those

pupils, if only because of a sudden change in teachers.” (*In the Matter of the Suspension of the Teaching Certificate of David T. Drake, School District of the Borough of Dunellen, Middlesex Co.*, 1987 S.L.D. 2016, 2019)

The Commissioner thus agrees with the Board that in resigning abruptly, respondent put his own self-interest above the interests of his students and his professional obligation to provide adequate notice to the Board. Accordingly, the Commissioner finds respondent guilty of unprofessional conduct, pursuant to *N.J.S.A. 18A:26-10*, and determines that the teaching certificate of respondent Dirk Dominick shall be suspended for a period of one year, which period shall commence upon the date of this decision. A copy of this decision is hereby forwarded to the State Board of Examiners for the purpose of effectuating the within decision and taking such further action, if any, as it deems appropriate.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of decision: July 21, 2005

Date of mailing: July 21, 2005

³ This decision, as the Commissioner’s final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A:4-1.1 et seq.*