

IN THE MATTER OF THE SUSPENSION :
OF THE TEACHING CERTIFICATE OF :
KELLY WENZEL, SCHOOL DISTRICT OF : COMMISSIONER OF EDUCATION
THE CHATHAMS BOARD OF EDUCATION, : DECISION
MORRIS COUNTY. :

SYNOPSIS

The Board sought suspension of the instructional certificate of respondent pursuant to *N.J.S.A.* 18A:26-10 for not providing adequate notice of resignation from her position as a teacher at Chatham High School. Respondent does not oppose suspension of her certificate, but disputes the length and effective date, arguing that the Commissioner should exercise her statutory discretion and determine that the one-year suspension should run from the date of resignation or 60 days thereafter; i.e., mid-September, 2004, or mid-November, 2004, rather than from the date of the Commissioner's final decision in this matter.

The Board submitted that there are no material facts in dispute and the Board is entitled to summary judgment pursuant to *N.J.S.A.* 18A:26-10. Respondent filed no affidavit or certification to detail mitigating circumstances or offer any special reason why the one-year suspension should have begun immediately upon her resignation. Accordingly, the ALJ granted the Board's motion for summary decision, finding: that respondent patently violated the 60 day notice provision of her contract as well as *N.J.S.A.* 18A:26-10; and there was no reason to modify the usual penalty in matters of this sort. Therefore, the ALJ recommended that the petition of appeal be dismissed.

Upon careful and independent review, the Commissioner concurs with the grant of the Board's motion for summary decision, and agrees that respondent violated the 60-day notice requirement and failed to provide any mitigating circumstances as to why a one-year suspension of her certificate should not be applied. Therefore, pursuant to *N.J.S.A.* 18A:26-10, the Commissioner orders that respondent's instructional certificate be suspended for a period of one year commencing from the date of this decision, and forwards the matter 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>

IN THE MATTER OF THE SUSPENSION :
OF THE TEACHING CERTIFICATE OF :
KELLY WENZEL, SCHOOL DISTRICT OF : COMMISSIONER OF EDUCATION
THE CHATHAMS BOARD OF EDUCATION, : DECISION
MORRIS COUNTY. :

The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. No exceptions were filed by the parties.

Upon a careful and independent review of this matter, the Commissioner concurs with the grant of the Board's motion for summary decision in that there are no material facts in dispute and the Board is entitled to prevail as a matter of law. See *N.J.A.C. 1:1-12.5(b)* and *Contini v. Bd. of Educ. of Newark*, 286 *N.J. Super.* 106, 121-122 (App. Div. 1995) (*citing Brill v. Guardian Life Ins. Co.*, 142 *N.J.* 520 (1995)). Moreover, the Commissioner agrees with the ALJ's conclusions that: 1) Ms. Wenzel violated the 60-day notice requirement set forth in both her contract and in *N.J.S.A. 18A:26-10*; and 2) Ms. Wenzel failed to provide any mitigating circumstances as to why the penalty assessed in similar matters, *i.e.*, a suspension of certification for one year from the date of the Commissioner's decision, should not be applied.

Accordingly, the Initial Decision of the Administrative Law Judge finding Kelly Wenzel guilty of unprofessional conduct and suspending her teaching certificate for a period of one year, which period shall commence upon the date of this decision, is adopted for

the reasons expressed therein. A copy of this decision is, therefore, being 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.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: October 27, 2005

Date of Mailing: October 27, 2005

* This decision 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.*