

#215-12 (OAL Decision: Not yet available online)

IN THE MATTER OF THE TENURE :
HEARING OF FRANCISCO LINDO, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE CITY OF : DECISION
UNION CITY, HUDSON COUNTY. :

SYNOPSIS

The Board certified tenure charges of conduct unbecoming against Franciso Lindo – a tenured teacher – following his arrest in 2009 by the Passaic County Prosecutor’s Office on allegations of sexual assault against a seventeen-year-old student with whom he allegedly had an ongoing relationship. Respondent was sentenced on December 14, 2011 to five years of imprisonment after pleading guilty to a second-degree charge of endangering the welfare of a minor. Respondent’s negotiated plea required him to be subject to Megan’s Law upon completion of his incarceration, and to forfeit his teaching position. The petitioning Board subsequently filed a motion for summary decision.

The ALJ found that: there are no material facts in dispute, and the matter is ripe for summary decision; in negotiating his guilty plea, respondent admitted to exchanging emails of a sexual nature and having sexual intercourse with a minor student on several occasions in 2008; based on his admission of guilt and his conviction of a disqualifying crime, respondent’s removal is statutorily mandated under *N.J.S.A. 18A:6-7.1*; and the Board amply sustained its burden of demonstrating that respondent’s conduct was unbecoming a teacher. Accordingly, the ALJ granted the Board’s motion for summary decision and ordered that respondent forfeit his tenure.

Upon full consideration and review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter and ordered a copy of this decision forwarded to the State Board of Examiners for action as that body 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>

May 21, 2012

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

Upon full consideration, the Commissioner concurs with the Administrative Law Judge that the Board has established its charges of unbecoming conduct against respondent as a consequence of his conviction for second degree endangering the welfare of a child (*N.J.S.A. 2C:24-4a*), and that termination from his tenured position is warranted.¹ It is also noted that respondent's court sentence on this charges included a requirement that he forfeit public and private teaching employment, and – pursuant to *N.J.S.A. 18A:6-7.1* – as a result of his conviction, respondent is forever banned from New Jersey public school employment in any capacity.²

¹ Respondent's arrest and the charges of sexual assault and criminal sexual conduct lodged against him formed the basis for the unbecoming conduct contained in the District's tenure charges.

² By letter dated December 14, 2011, the Union City Superintendent of Schools notified respondent of his ineligibility for employment as a teacher pursuant to *N.J.S.A. 18A:6-7.1*, and his immediate termination of employment with the District.

Accordingly, the recommended decision of the OAL is adopted. For all of the reasons listed above, respondent is removed from his tenured teaching position. This decision shall be transmitted to the State Board of Examiners for action as that body may deem necessary.

IT IS SO ORDERED.³

ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 21, 2012

Date of Mailing: May 22, 2012

³ 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*)