

#383-14

IN THE MATTER OF THE TENURE HEARING :  
OF DEVORAH DESOUZA-ALVES, : COMMISSIONER OF EDUCATION  
STATE-OPERATED SCHOOL DISTRICT : DECISION  
OF THE CITY OF NEWARK, ESSEX COUNTY. :

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SYNOPSIS

Petitioning Board filed tenure charges of excessive absenteeism and conduct unbecoming a teaching staff member against respondent, a tenured teacher, and sought to terminate her employment with the district. Neither respondent nor any attorney acting on her behalf filed an answer to the petition following notice pursuant to *N.J.A.C.* 6A:3-5.3 and 6A:3-5.4.

The Commissioner concluded that, pursuant to *N.J.A.C.* 6A:3-5.4(h), the allegations – which respondent has chosen not to deny – may be deemed admitted and are sufficient to warrant termination of the respondent from her tenured position. Accordingly, the Commissioner granted summary decision to the petitioner, dismissed the respondent from her tenured position in petitioner’s school district, and forwarded a copy of this decision to the State Board of Examiners for review and action as that body deems 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>
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September 17, 2014

AGENCY DKT NO. 170-7/14

IN THE MATTER OF THE TENURE HEARING :  
OF DEVORAH DESOUZA-ALVES, : COMMISSIONER OF EDUCATION  
STATE-OPERATED SCHOOL DISTRICT : DECISION  
OF THE CITY OF NEWARK, ESSEX COUNTY. :

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For the Petitioner, Bernard Mercado, Esq.

No appearance by or on behalf of Respondent, Devorah DeSouza-Alves

This matter was opened before the Commissioner of Education on July 21, 2014, through tenure charges of chronic and excessive absenteeism certified by Cami Anderson, State District Superintendent of the State-Operated School District of the City of Newark, together with supporting evidence against Devorah DeSouza-Alves, a tenured teacher in the petitioner's employ. The petitioner provided respondent with written notice of such certification at the respondent's last known address, via regular and certified mail, sent on or about July 17, 2014. The petitioner also served a copy of the tenure charges on the respondent's union representative, as well as general counsel to the Newark Teacher's Union. Counsel for the petitioner submitted a certification indicating that the charges sent to the respondent via certified mail and regular mail were returned as undeliverable. Counsel for the petitioner also certified that the charges sent to the respondent's union representative and general counsel to the Newark Teacher's Union were duly received and not returned.

On July 21, 2014, the Commissioner directed the respondent – via both certified and regular mail – to file an answer to the charges. This communication clearly provided notice to respondent that, pursuant to *N.J.A.C.* 6A:3-5.3 and 6A:3-5.4, an individual against whom

tenure charges are certified “*shall have 15 days from the day such charges are filed with the Commissioner to file a written response to the charges with the Commissioner,*” and that failure to answer within the prescribed period would – absent granting of an extension for good cause shown – result in the charges being deemed admitted. A copy of the July 21, 2014 notice was also sent to general counsel for the Newark Teacher’s Union. Both the certified mail copy and the regular mail copy sent to the respondent were returned as undeliverable. The copy sent to general counsel for the Newark Teacher’s Union was not returned. No reply to the tenure charges was received from or on behalf of respondent.

The certified tenure charges and statement of supporting evidence filed by the petitioner in this matter indicate that respondent was absent for all of the 2010-2011 and 2011-2012 school years, utilizing her sick time. During the 2012-2013 school year, the respondent reported to the Educator Without Placement Site for four days, and thereafter was Absent Without Leave (AWOL) for the remainder of the school year. According to the certification, the District contacted the respondent via email in October 2012 indicating that she had not been to work since September 10, 2012, and requesting either a resignation letter or notice to the District explaining her absence. The respondent did not respond to the October 2012 correspondence. Finally, the respondent was AWOL for the entire 2013-2014 school year.

Deeming the allegations to be admitted and noting that respondent has failed to respond to the charges certified against her, the Commissioner finds that petitioner’s charges of excessive absenteeism and conduct unbecoming a teaching staff member have been proven and that they warrant respondent’s dismissal. Accordingly, summary decision is hereby granted to the petitioner, and the respondent is dismissed from her tenured position with the District. This

matter will be transmitted to the State Board of Examiners for action against respondent's certificate(s) as that body deems appropriate.

IT IS SO ORDERED.<sup>1</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 17, 2014

Date of Mailing: September 17, 2014

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<sup>1</sup> 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*)