



The Newark Public Schools
Office of the General Counsel
 2 Cedar Street
 Newark, New Jersey 07102-3091
 Phone: 973-733-7333
 Fax: 973-733-6834




Marion A. Bolden
 State District Superintendent

William L. Librera
 Commissioner of Education

March 18, 2003

VIA REGULAR AND CERTIFIED MAIL



Dear 


You are herewith advised that Charges of Excessive Absenteeism and Unbecoming Conduct have been filed against you.

In that regard, enclosed please find one (1) copy of each of the following: 1) Statement of Charges; 2) Statement of Evidence in Support of the Charges; and 3) Appendix of Exhibits supporting the Statement of Evidence.

Please be further advised that pursuant to N.J.S.A. 18A:6-11 and N.J.A.C. 6A:3-5.1, you are granted the opportunity to submit a written statement of evidence under oath with respect to the Charges within fifteen (15) days from the date of receipt of this notice. After the expiration of that period, I shall (i) consider the Charges and the statement of evidence that you have submitted; (ii) make a determination as to whether there is probable cause to credit the evidence in support of the Charges; and (iii) if such Charges are credited, determine whether they are sufficient to warrant dismissal. In the event of a determination of probable cause, I will certify the matter to the Commissioner of Education of the State of New Jersey for hearing, pursuant to N.J.S.A. 18A:6-16.

You will be notified in writing of any determination.

Very truly yours,


 Marion Bolden
 District Superintendent

Enclosures

Cc: AnnMarie McGoldrick



The Newark Public Schools
 Office of the General Counsel
 2 Cedar Street
 Newark, New Jersey 07102-3091
 Phone: 973-733-7139
 Fax: 973-733-7054



Marion A. Bolden
 State District Superintendent

William L. Librera
 Commissioner of Education

Perry Lattiboudere, Esq.
 General Counsel

Arsen Zartarian, Esq.
Joseph Verga, Esq.
Raphael Felli, Esq.
 Associate Counsel

April 15, 2003

William L. Librera, Commissioner of Education
 Department of Education
 c/o Bureau of Controversies and Disputes
 P.O. Box 500
 Trenton, New Jersey 08625-0500

**Re: In Re Tenure Charges of [REDACTED]
 State Operated School District of the City of Newark**

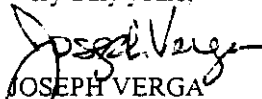
Dear Commissioner Librera:

This office represents Petitioner, State-Operated School District of the City of Newark, in connection with the above-referenced tenure charges of unbecoming conduct and excessive absenteeism.

Enclosed are the original and two (2) copies of the Statement of Charges, Statement of Evidence, Appendix of Exhibits and supporting documentation, and Certificate of Determination regarding the above-referenced matter. Also enclosed is a Certificate of Service of the within upon [REDACTED]. Please have your staff file the originals and return a confirmation of filing to the undersigned.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Very truly yours,


 JOSEPH VERGA
 ASSOCIATE COUNSEL

JV
 Enclosures

Cc: Marion Bolden, State District Superintendent
 Anne Marie McGoldrick, Director, Office of Human Resources
 Benjamin O'Neal, State District Assistant Superintendent
 [REDACTED]

STATEMENT OF CHARGES

I, Benjamin O'Neal, Assistant Superintendent of the State Operated School District of the City of Newark, in the County of Essex (the "District"), do herewith charge that [REDACTED], a tenured teacher at Weequahic High School, is guilty of Chronic and Excessive Absenteeism, which constitute Unbecoming Conduct and Other Just Cause under N.J.S.A. 18A:6-10, and is sufficient to warrant her dismissal from employment.

CHARGE NUMBER ONE


[REDACTED] is guilty of Chronic and Excessive Absenteeism by way of the following:

1. [REDACTED] has been chronically and excessively absent from her duties as a teacher. As a result of her excessive absenteeism, there has been a disruption in the continuity of instruction to the pupils of the Newark Public Schools. From September 1995 through September 2002, [REDACTED] has been absent from her duties approximately 443 days in the following manner (See Exhibit 1):


- a) 1995-1996 school year: absent 22 days
- b) 1996-1997 school year: absent 15 days
- c) 1997-1998 school year: absent 26 days
- d) 1998-1999 school year: absent 73 days
- e) 1999-2000 school year: absent 66 days

- f) 2000-2001 school year: absent 83 days
- g) 2001-2002 school year: absent 154 days
- h) 2002-2003 school year: absent 4 days

2. [REDACTED] has been repeatedly advised that her attendance was unsatisfactory and needed to be improved (See Exhibits 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27).



BENJAMIN O'NEAL
Assistant Superintendent
State Operated School District
Of the City of Newark

Sworn and subscribed to
before me this 17 day
of March, 2003

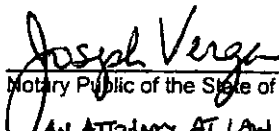

Notary Public of the State of New Jersey
AN ATTORNEY AT LAW IN THE
STATE OF NEW JERSEY

STATEMENT OF EVIDENCE

Documentary evidence in support of the Charges that [REDACTED] is guilty of Excessive Absenteeism is found in the reports and other documents prepared or compiled by employees of the State Operated School District of the City of Newark and contained in the Appendix of Exhibits attached hereto.


BENJAMIN O'NEAL
Assistant Superintendent
State Operated School District
Of the City of Newark

Sworn and subscribed to
before me this 17 day
of March, 2003


Notary Public of the State of New Jersey
AN ATTORNEY AT LAW in THE
STATE OF NEW JERSEY

APPENDIX OF EXHIBITS

1. Chronology of absences from September 1995 through September 2002.
2. Teachers' Time Record from September 1995 to June 1996.
3. Teachers' Time Record from September 1996 to June 1997.
4. Teachers' Time Record from September 1997 to June 1998.
5. Teachers' Time Record from September 1998 to June 1999.
6. Teachers' Time Record from September 1999 to June 2000.
7. Teachers' Time Record from September 2000 to June 2001.
8. Teachers' Time Record from September 2001 to June 2002.
9. Teachers' Time Record for September 2002.
10. 1998-99 Teacher Annual Evaluation.
11. Memorandum dated June 23, 2000, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding poor attendance.
12. Memorandum dated June 26, 2000, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding poor attendance.
13. 1999-2000 Teacher Annual Evaluation and Professional Improvement Plan.
14. Memorandum dated October 19, 2000, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding poor attendance.
15. Memorandum dated October 27, 2000, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding a conference on October 27, 2000.
16. Memorandum dated November 20, 2000, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding [REDACTED] failure to contact the school on days that she was absent.

17. Memorandum dated November 21, 2000, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding poor attendance.
18. Memorandum dated November 28, 2000, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding poor attendance.
19. Memorandum dated December 8, 2000, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding her absence from assigned duty.
20. Memorandum dated December 11, 2000, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding poor attendance.
21. Teacher Observation Report dated December 2000.
22. Memorandum dated February 8, 2001, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding AWOL status.
23. Teacher Observation Report dated April 27, 2001.
24. 2000-2001 Teacher Annual Evaluation and Professional Improvement Plan.
25. Memorandum dated September 12, 2001, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding AWOL status.
26. Memorandum dated September 21, 2001, to [REDACTED] from Special Education Chairperson Reginald Oliver of Weequahic High School regarding poor attendance.
27. 2001-2002 Teacher Annual Evaluation.

**STATE-OPERATED SCHOOL
DISTRICT OF THE CITY OF NEWARK**

Office of the General Counsel
2 Cedar Street
Newark, New Jersey 07102
(973) 733-7139

In the Matter of the
Tenure Hearing of

[REDACTED]

STATE-OPERATED SCHOOL
DISTRICT OF THE CITY OF
NEWARK

CERTIFICATE OF DETERMINATION

Marion Bolden, of full age, hereby certifies as follows:

1. I am the District Superintendent of the State-Operated School District of the City of Newark, in the County of Essex, New Jersey ("School District") and I am fully familiar with the facts in this matter.
2. I submit this Certificate of Determination in support of the enclosed tenure charges against [REDACTED], a tenured teacher employed in the School District.
3. On or about March 18, 2003, tenure charges of excessive absenteeism and unbecoming conduct, as well as supporting documents, were filed against [REDACTED] by Benjamin O'Neal, State District Assistant Superintendent. These charges were filed with the undersigned pursuant to N.J.S.A. 18A:6-11 et seq.
4. A copy of the within charges and supporting evidence was served personally on [REDACTED] via regular and certified mail on or about March 19, 2003.

5. To date, my office has not received a written response to the charges from [REDACTED]
6. Pursuant to N.J.S.A. 18A:6-11, I have considered the charges and supporting evidence alleging excessive absenteeism and unbecoming conduct as a teacher, as well as the statement of evidence, and have determined that there is probable cause to credit the evidence in support of the charges. I have further determined that the charges, if credited, are sufficient to warrant the dismissal of [REDACTED] pursuant to N.J.S.A. 18A:6-11.
7. I have determined that [REDACTED] should be suspended without pay effective April 21, 2003.

I hereby certify that the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


MARION BOLDEN
STATE DISTRICT SUPERINTENDENT

Dated: April 15, 2003
Newark, New Jersey

NEWARK PUBLIC SCHOOLS
PERSONNEL ACTION NOTICE

HRS# _____

AGENDA

ACTIVITY (Background and Recommendation):

Page 1 of 3

STATE-OPERATED SCHOOL DISTRICT OF THE CITY OF NEWARK

RESOLUTION

WHEREAS, tenure charges alleging excessive absenteeism and unbecoming conduct were filed with the State-Operated School District of the City of Newark ("District") on March 18, 2003 against [REDACTED], who is employed by the District as a teacher;

WHEREAS, a copy of the tenure charges and supporting evidence were served upon [REDACTED] on or about March 19, 2003, along with a letter providing [REDACTED] with an opportunity to respond to the charges;

WHEREAS, [REDACTED] failed to file an Answer to the charges;

WHEREAS, the District, on April 15, 2003, pursuant to N.J.S.A. 18A:6-11, considered Charge Number One filed against [REDACTED] as set forth in the Statement of Charges, alleging excessive

APPROVALS REQUIRED

Approved by: _____
Director of Human Resources

Date

Approved by: _____
State District Superintendent

Date

NEWARK PUBLIC SCHOOLS
PERSONNEL ACTION NOTICE

HRS# _____

AGENDA

ACTIVITY [Background and Recommendation]:

Page 2 of 3

absenteeism and unbecoming conduct as a teacher, as well as the supporting documentation and evidence with respect to same;

WHEREAS, the District has determined that there is probable cause to credit the evidence in support of the charges of excessive absenteeism and unbecoming conduct; and

WHEREAS, the District has further determined that the charges of excessive absenteeism and unbecoming conduct, if credited, are sufficient to warrant the dismissal or reduction of salary of [REDACTED] pursuant to N.J.S.A. 18A:6-11;

NOW THEREFORE BE IT RESOLVED, that the State-Operated School District of the City of Newark hereby certifies the charges of excessive absenteeism and unbecoming conduct, referred to in the Statement of Charges as Charge One against [REDACTED] to the Commissioner of Education, of the State of New Jersey ("Commissioner") pursuant to N.J.S.A. 18A:6-11; and

APPROVALS REQUIRED

Approved by: _____
Director of Human Resources

Date

Approved by: _____
State District Superintendent

Date

**NEWARK PUBLIC SCHOOLS
PERSONNEL ACTION NOTICE**

HRS# _____

AGENDA

ACTIVITY (Background and Recommendation):

Page 3 of 3

BE IT FURTHER RESOLVED that the necessary Certificate of Determination and supporting documents to certify the Charges to the Commissioner shall be prepared for submission to the Department of Education.

TAKE NOTICE that the State-Operated School District of the City of Newark adopted the foregoing resolution on April 15, 2003.

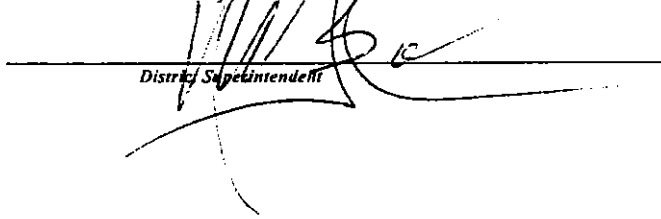
APPROVALS REQUIRED

Approved by: _____


Director of Human Resources

4/15/03
Date

Approved by: _____


District Superintendent

4/15/03
Date

NEWARK PUBLIC SCHOOLS
PERSONNEL ACTION NOTICE

HRS# _____

AGENDA

ACTIVITY (Background and Recommendation):

Page 1 of 1

STATE-OPERATED SCHOOL DISTRICT OF THE CITY OF NEWARK

RESOLUTION

WHEREAS, the State-Operated School District of the City of Newark ("District") determined on April 15, 2003 to certify tenure charges of excessive absenteeism and unbecoming conduct against [REDACTED] to the Commissioner of Education of the State of New Jersey ("Commissioner");

WHEREAS, the District deems it in the best interests of the students and the District to suspend [REDACTED] pending the resolution of the tenure charges against her;

WHEREAS, N.J.S.A. 18A:6-14 gives a Board of Education the authority to suspend an employee without pay in connection with the certification of tenure charges;

NOW THEREFORE BE IT RESOLVED that [REDACTED] is suspended without pay, effective April 21, 2003, in connection with the certification of tenure charges against her to the Commissioner of Education.

APPROVALS REQUIRED

Approved by:

[Signature]
Director of Human Resources

4/15/03

Date

Approved by:

[Signature]
District Superintendent

4/15/03

Date

**STATE-OPERATED SCHOOL
DISTRICT OF THE CITY OF NEWARK**
Office of the General Counsel
2 Cedar Street
Newark, New Jersey 07102
(973) 733-7139

In the Matter of the
Tenure Hearing of

[REDACTED]

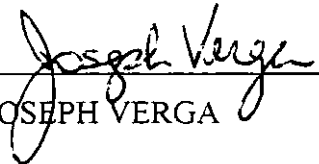
STATE-OPERATED SCHOOL
DISTRICT OF THE CITY OF
NEWARK

CERTIFICATION OF SERVICE

I hereby certify that on April 16, 2003, I caused the following documents to be served personally upon [REDACTED] via regular and certified mail:

- Certificate of Determination
- Tenure Charges of Excessive Absenteeism and Unbecoming Conduct
- Statement of Evidence and Appendix of Exhibits
- Resolutions

I certify that the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



JOSEPH VERGA

Dated: April 15, 2003

Newark, New Jersey

304-03

IN THE MATTER OF THE TENURE :
HEARING OF ██████████, :
STATE-OPERATED SCHOOL DISTRICT OF :
THE CITY OF NEWARK, ESSEX COUNTY. :

COMMISSIONER OF EDUCATION

DECISION

June 24, 2003

AGENCY DKT. NO. 113-4/03

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

This matter was opened before the Commissioner of Education on April 17, 2003 through the certification of tenure charges alleging excessive absenteeism and unbecoming conduct against a tenured teacher employed by the State-operated School District of the City of Newark (hereinafter, "District").

The Commissioner directed respondent, via both certified and regular mail on April 17, 2003, to file an Answer to the tenure charges against her.¹ This communication from the Bureau of Controversies and Disputes clearly provided respondent notice 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 date such charges are filed with the Commissioner* to file a written response to the charges, and that failure to answer within the prescribed period, where no extension has been applied for and granted, or where there has been a submission by the charged employee of a responsive filing indicating that she does not contest the charges, **will** result in the charges being deemed admitted by the charged employee.

¹ The notice sent via certified mail was returned as "unclaimed."

On May 13, 2003, well outside the 15-day period provided by regulation and without obtaining an extension of time in which to answer, [REDACTED] responded to the charges.² By letter dated May 14, 2003 from the Bureau of Controversies and Disputes, respondent was afforded the opportunity to provide reasons for her untimely filing and her failure to request an extension, as well as to address why the Commissioner should not, under these circumstances, deem the charges brought by the District to be admitted. Respondent submitted a response to this request by letter dated May 20, 2003. In essence, she states that she has been beset by a series of family losses over the years which have contributed to her poor performance, and that she was away from home when the initial notice of charges was sent by the Bureau of Controversies and Disputes. Respondent reiterates that she has suffered from Post Traumatic Stress, but that she is currently in control of her stress, has undergone counseling and is feeling

² In her responsive filing, respondent states, in full:

This written letter is my response to the "tenure" charges filed by the Commissioner's office [sic] on April 17, 2003.

I deeply regret [sic] that these charges are filed. I've been teaching in Newark for many years – my records of teachings were always "Excellent" if not good. I have always loved children and I am a good person, as well as a good teacher. However, in the past few years of my teaching profession I've suffered [sic] some misfortunes, and personal illness.

I deeply hope my tenure isn't taken because I've worked soo [sic] hard to achieve it.

Please accept my sincerest apologies for any unprofessional behavior or conduct that may have caused the state to file charges against me.

I would deeply regret [sic] losing my tenure, even my employment with the Newark School District.

I still love children, respect them and want to continue to teach should the State Commissioner grant me a second chance.

Please write me soon so I may know my status ("job") once a decision has been made on my behave [sic]. "Thank you."

Sincerely, [REDACTED] ****

Two post scripts from the letter state:

Currently, I am physically and emotionally stressed – suffering from Post Traumatic Stress, "P.T.S." since the year 2000. I can provide medical records if needed by the State Board of Education proving the poor health I have. Thank you. [REDACTED]

Please excuse my late response to the charges filed against me.

much better. She asserts that she would like “a second chance to prove I am productive, and can teach again.” [REDACTED] Letter, May 20, 2003 at 2)

In reply, the District contends that, pursuant to *N.J.A.C. 6A:3-5.3(c)*, the charges against respondent should be deemed admitted. In this connection, the District argues that respondent’s filing on May 13 should be considered untimely, as it was submitted 11 days late, with no explanation for such lateness. To the extent respondent argues that she was away from home at the time the charges were certified to the Commissioner, the District counters that respondent was on notice since March 18, 2003, the date the District actually filed tenure charges against her, that the District would consider certifying such charges to the Commissioner. (District’s Reply at 3-4)

If, however, respondent’s submission is considered, the District asserts that, substantively, respondent does not, in her Answer, “indicate that she disagrees with the charges or that they are false.” (*Id.* at 3) The District continues,

In fact, her Answer amounts to an apology for her excessive absenteeism, blaming “misfortune and personal illness” for her poor attendance record. Instead of challenging the veracity of the charges, Respondent asks the Commissioner to “grant her a second chance.” Since there is absolutely no indication that Respondent contests the charges, the District’s view is that Respondent’s Answer should be deemed an admission of the charges. (*Ibid.*)

Upon review, the Commissioner initially notes that the pertinent regulations regarding answers to tenure charges provide:

Where no answer is filed within the requisite time period and no request for an extension is made, or such request is denied by the Commissioner, or where the charged employee submits an answer or other responsive filing indicating that he or she does not contest the charges, the charges shall be deemed admitted by the charged employee. *N.J.A.C. 6A:3-5.3(c)*.

Therefore, even assuming, *arguendo*, that respondent's submission of May 13, 2003 was timely filed, the Commissioner concurs with the District's view that respondent does not challenge any of the specific facts which underlie the tenure charges in this matter, notwithstanding that she clearly expresses her dismay that such charges were, in fact, filed against her. Consequently, pursuant to *N.J.A.C. 6A:3-5.3(c)*, the Commissioner finds that respondent does not contest the tenure charges brought by the District.

The Commissioner's review of the tenure charges certified against respondent by the District and the statement of evidence in support of those charges indicate that from September 1995 through September 2002, respondent was absent from her duties a total of 443 days, as follows:


- In the 1995-1996 school year, respondent was absent 22 days;
- In the 1996-1997 school year, respondent was absent 15 days;
- In the 1997-1998 school year, respondent was absent 26 days;
- In the 1998-1999 school year, respondent was absent 73 days;
- In the 1999-2000 school year, respondent was absent 66 days;
- In the 2000-2001 school year, respondent was absent 83 days;
- In the 2001-2002 school year, respondent was absent 154 days; and
- In September 2002, respondent was absent 4 days.

The District avers, and the record demonstrates, that respondent has been repeatedly advised that her attendance is unsatisfactory and in need of improvement. It further contends that respondent's absenteeism has resulted in a disruption in the continuity of instruction to the pupils in the District. (Tenure Charges at 1-2)

The Commissioner recognizes that the enabling statute provides that tenured staff shall not be dismissed or reduced in compensation "except for inefficiency, incapacity, unbecoming conduct, or other just cause." *N.J.S.A. 18A:6-10*. Deeming the above charges to be admitted, and noting that respondent does not deny the specific allegations contained therein, the Commissioner finds that the District has demonstrated that respondent's pattern of

excessive absences, and its resultant negative impact on the District, constitutes conduct unbecoming a teaching staff member sufficient to warrant her dismissal.

IT IS ORDERED this 25th day of June 2003 that summary decision shall be granted to the District, and respondent shall be dismissed from her tenured position as a teacher in the District's employ as of the date of this order. This matter shall be referred to the State Board of Examiners pursuant to *N.J.A.C. 6:11-3.6* for action against respondent's certificate as it deems appropriate.³


COMMISSIONER OF EDUCATION

Date Decided 6/24/03
Date Mailed 6/25/03

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.*