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(Attach to Form
3020-a-1

The University of the State of New York
The State Education Department
School District Employer-Employee Relations Unit
Education Building Annex, Room 980
Albany, New York 12234

Supplemental Notification of
Principal's Determination of Probable Cause
Section 3020-a, Education Law

To: The Commissioner of Education:

The finding of probable cause as to the following charges against Theodore (Ted) Smith was determined by me, as Principal of New York City Museum School:

- Just Cause for disciplinary action under Education Law §3020-a;
- Conduct unbecoming Respondent's position, or conduct prejudicial to the good order, efficiency or discipline of the service;
- Substantial cause rendering Respondent unfit to perform his obligations properly to the service;
- Violation of Chapter 49, Section 1128 of the New York City Chapter;
- Criminal conduct;
- Neglect of duty; and
- Just cause for termination.

I have given due consideration and have found probable cause on each charge separately listed above.

01/08/08
Date



Darlene Miller
Principal
New York City Museum School

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Search Results

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- **Delivered, January 09, 2008, 11:42 am, NEW YORK, NY 10022**
- **Arrival at Unit, January 09, 2008, 6:59 am, NEW YORK, NY 10022**
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The University of the State of New York
The State Education Department
School District Employer-Employee Relations Unit
Education Building Annex, Room 980
Albany, New York 12234

Notice of Determination of Probable Cause on Charges
Brought Against Tenured School District Employee
Section 3020-a, Education Law

To: Mr. Theodore (Ted) Smith
2 Sutton Place South - Apt. 10-6
New York, New York 10022

Please be advised that, Darlene Miller, Principal of New York City Museum School, located at 333 West 17th Street, New York, New York 10011 within District #2 on January 08, 2008 has found that there is probable cause on the attached charges preferred against you. **See attached a copy of the charges and specifications.**

Within ten (10) days of receipt of these charges, you must elect to request a hearing before an impartial hearing officer, or you will waive your right to such a hearing. Should you fail to request or to waive within the specified ten days, the **Principal** will notify both you and the Commissioner of Education that a waiver has been deemed to have occurred and that the **Principal** will determine the case and fix the penalty or punishment, if one is to be imposed.

If you do not request a hearing to contest these charges, the maximum penalty that will be imposed will be termination. If you do contest the allegations in a hearing and are found guilty, the **Principal** will seek your dismissal.

Attached is a copy of the Rights of Tenured Employees under Section 3020-a and 2590-j of the Education Law as well as State Education Department Regulation Subpart 82.1 and pertinent sections of the collective bargaining agreement. **A copy of the charges is being forwarded to the New York State Commissioner of Education, as required by law.**

Copy must be sent to:
Commissioner of Education
State Education Department
School District Employer-Employee Relations Unit
Education Building Annex, Room 980
Albany, New York 12234

SPECIFICATIONS

THEODORE (TED) SMITH (hereinafter referred to as "Respondent"), under File #678104, S.S. # 116-56-5580, is a tenured physical education teacher formerly assigned to the New York City Museum School in District 2 in Manhattan. During the 2006-2007 school year and in the summer of 2007, Respondent engaged in aggravated harassment, conduct unbecoming his position violated Chapter 49 of the New York City Charter and neglected his duties as follows.

In Particular:

Specification 1: On or about April 12, 2007 the Respondent made death threats in reference to Arbitrator Jack Tillem, who was serving as the hearing officer in a pending Education Law § 3020-a matter also against the Respondent, using words to the effect of:

- a) I've got a problem with that fucking arbitrator, all right.
- b) I'm going to kick your fucking head in and kill that fucking arbitrator Jack Tillem, you hear me?
- c) I want to kill him.
- d) Tillem is already crooked, (referencing Arbitrator Tillem's physical impairment).
- e) I'm going to break him in half and then bust his head in.
- f) I will kill that fucking asshole.
- g) I want to bash his head in.
- h) I will beat his fucking head.

Specification 2: On or about May 2, 2007 the Respondent:

- a) Mailed a letter to the home address of Arbitrator Jack Tillem, *ex parte*, wherein Respondent accused the arbitrator of being bias and tilted against him.
- b) Sent said letter with a text and tone that alarmed Arbitrator Tillem.

Specification 3: On or about May 8, 2007 the Respondent's death threats against Arbitrator Jack Tillem, as outlined in Specification 1 a) through h) above, were conveyed to Arbitrator Tillem causing Arbitrator Tillem apprehension, and Tillem felt threatened by Respondent's statements.

Specification 4: As a result of the conduct described in Specifications 1 and 2, Respondent:

- a) Caused Arbitrator Tillem to recuse himself from the pending Education Law § 3020-a matter against the Respondent.
- b) Obstructed, impaired and/or perverted the administration of law.
- c) Caused a delay in the pending Education Law § 3020-a matter against the Respondent.

Specification 5: Respondent hindered an investigation conducted by the Office of the Special Commissioner of Investigation (SCI), an arm of the New York City Department of Investigation, when he made false statements to the SCI, on or about July 16, 2007.

The foregoing constitutes:

- Just Cause for disciplinary action under Education Law §3020-a;
- Conduct unbecoming Respondent's position, or conduct prejudicial to the good order, efficiency or discipline of the service;
- Substantial cause rendering Respondent unfit to perform properly his obligations to the service;
- Violation of Chapter 49, Section 1128 of the New York City Charter;
- Criminal Conduct;
- Neglect of duty; and
- Just cause for termination.