

293-01 SEC
AGENCY DKT. NO. 251-7/01

IN THE MATTER OF PETER KOWAL, :
BOARD OF EDUCATION OF THE : COMMISSIONER OF EDUCATION
CITY OF RAHWAY, UNION COUNTY. : DECISION
_____ :

Whereas, the School Ethics Commission has acted pursuant to the authority granted to it by *N.J.S.A.* 18A:12-21 *et seq.* to recommend removal of the above-named Board member from office for failure to attend the Board member training required by *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-1.6; and

Whereas, the School Ethics Commission sent ample notice to the above-named Board member of his failure to attend such training; and

Whereas, pursuant to *N.J.A.C.* 6A:28-1.6(e), on April 9, 2001 the Commission issued an Order to Show Cause why a penalty should not be imposed for such failure; and

Whereas, the above-named Board member replied to the Commission, indicating that his non-attendance at training was due to his father's serious illness which had been for the better part of a year, and to his sole proprietorship of a business which specifically required his presence during weekend hours when the training sessions were held; and

Whereas, the Board member has registered for the October 2001 training session; and

Whereas, the Commission voted on June 26, 2001, to recommend suspension of the above-named Board member until he attends the required training, and to remove him from the Board if he fails to timely attend training in violation of State statute, memorializing such decision through a resolution forwarded to the Commissioner, pursuant to *N.J.S.A.* 18A:12-29; and

Whereas, on July 12, 2001, the above-named Board member was afforded an opportunity to submit to the Commissioner a response to the Commission's resolution recommending suspension, pending attendance at training, and removal if he fails to so attend in October 2001; and

Whereas, on July 26, 2001, the above-named Board member responded to the Commissioner, seeking rescission of his suspension as he plans to attend the October 2001 training and in view of the fact that he was previously an elected Board member for three consecutive terms, 1986-1995 and other unique circumstances set forth above¹; and

Whereas, the above-named Board member also urges that suspending him pending attendance at a one-day orientation session would not benefit anyone and explains that he is serving as Vice President of the Board and Chairperson of the Building and Grounds Committee during a \$15,000,000 new construction and renovation project; and

Whereas, the Commissioner of Education has, pursuant to the authority granted him by *N.J.S.A.* 18A:4-34c, delegated the responsibility to decide this matter to an Assistant Commissioner; and

Whereas, the Assistant Commissioner has carefully considered the record of this matter and the decision of the School Ethics Commission recommending suspension and removal of the above-named Board member if he fails to attend a training session by October 2001; and

Whereas, the Assistant Commissioner concludes that, under the unique factual circumstances presented in this matter as detailed in the above-named Board member's

¹ Although the Commission's resolution does not reference the fact that Mr. Kowal had previously served as a Board member for three consecutive terms, the record before the Commissioner documents that the Commission had knowledge of this fact prior to making its decision to recommend suspending him pending attendance at a training session by October 2001.

submissions, suspension is not warranted pending his attendance at training in October 2001;
now therefore

IT IS ORDERED that the above-named Board member shall remain as a Board member pending completion of the requisite training; however, in the event he fails to complete the required training by October 23, 2001, the above-named Board member is hereby summarily removed from office effective October 24, 2001.²

ASSISTANT COMMISSIONER OF EDUCATION

Date of Decision: September 6, 2001

Date of Mailing: September 10, 2001

² This decision, as the Commissioner's final determination regarding penalty in the instant matter, 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.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.