

AGENCY DKT NO. 364-12/05

IN THE MATTER OF DIANA LOBOSCO, :

PASSAIC COUNTY EDUCATIONAL SERVICES: COMMISSIONER OF EDUCATION

COMMISSION, PASSAIC COUNTY. : DECISION

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**SYNOPSIS**

The School Ethics Commission (Commission) determined that Passaic County Educational Services Commission Board of Education member Diana Lobosco violated *N.J.S.A.* 18A:12-24.1(c) of the Code of Ethics for School Board Members when, as Board President, she voted to award a Board contract to the Passaic County Technical Institute, where Ms. Lobosco is employed as Superintendent. After considering the nature of the charge, the Commission recommended that the Commissioner of Education impose a penalty of reprimand.

Upon a thorough review of the record, the Commissioner, whose decision was restricted solely to a review of the Commission’s recommended penalty pursuant to *N.J.S.A.* 18A:12-29(c) and *N.J.A.C.* 6A:3-9.1, concurred with the Commission’s recommendation. The Commissioner thus ordered that Diana Lobosco be reprimanded as a school official found to have violated the School Ethics Act.

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.

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The record of this matter and the decision of the School Ethics Commission (“Commission”), finding Passaic County Educational Services Commission Board of Education member Diana Lobosco violated *N.J.S.A.* 18A:12-24(c) when, as Board President, she voted to award a Board contract to the Passaic County Technical Institute, where she is employed as Superintendent, along with the Commission’s recommended penalty of reprimand, have been reviewed. Upon issuance of the decision of the Commission, Ms. Lobosco was provided thirteen days from the mailing date of the decision to file written comments on the recommended penalty for the Commissioner’s consideration. Comments from Greg K. Vitali, Esq., counsel for Ms. Lobosco, were timely filed.

Counsel’s comments propose that the Commission’s recommended sanction of reprimand is too harsh and severe under the circumstances. In support of this assertion, counsel essentially argues that the Commission, in finding that Ms. Lobosco violated *N.J.S.A.* 18A:12-24(c), adopted a too stringent application of *N.J.S.A.* 18A:12-24(h), which he urges should be applicable here. Furthermore, he submits:

Ms. Lobosco’s participation in this particular vote is clearly not the type of action or conduct that the School Ethics Act is designed to discourage or protect against. The imposition of the sanction of reprimand, therefore, will serve only to blemish an otherwise enviable record of longtime faithful and dedicated public service, a result which the Legislature in adopting the School Ethics Act clearly did not have in mind.

As such, counsel for Ms. Lobosco urges that the Commissioner find that, under the particular conditions here, no penalty is appropriate.

Initially, it must be emphasized that, pursuant to *N.J.S.A.* 18A:12-29(c) and *N.J.A.C.* 6A:3-9.1, the determination of the Commission as to violation of the School Ethics Act is **not reviewable by the Commissioner** herein. Only the Commission may determine whether a violation of the School Ethics Act occurred. The Commissioner's jurisdiction is limited to reviewing the sanction to be imposed based upon a finding of a violation by the Commission. Therefore, this decision is restricted to a review of the Commission's recommended penalty.

Upon a thorough review of the record, the Commissioner notes that, contrary to the apparent misapprehension of counsel for Ms. Lobosco, having found a violation of the School Ethics Act, the Commission was statutorily obligated to recommend a sanction for this infraction (See *N.J.S.A.* 18A:12-29c.). As evidenced in its decision, upon full consideration of the nature of the offense and after weighing the effects of aggravating and mitigating circumstances, the Commission recommended the least onerous penalty possible. The Commissioner finds no cause to disturb the Commission's recommended penalty.

Accordingly, IT IS hereby ORDERED that Diana Lobosco be reprimanded as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.\*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 10, 2006

Date of Mailing: January 10, 2006

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\* This decision 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.*