

AGENCY DKT. NO. 323-10/07

IN THE MATTER OF HARRY LUNA, :  
BOARD OF EDUCATION OF THE : COMMISSIONER OF EDUCATION  
CITY OF TRENTON, MERCER COUNTY. : DECISION  
\_\_\_\_\_ :

The record of this matter and the decision of the School Ethics Commission, forwarded to the Commissioner pursuant to *N.J.S.A.* 18A:12-29 solely for review of the Commission’s recommended penalty, have been reviewed. No comments were filed by the respondent, but the Commissioner has been notified that the respondent did attend training on October 23, 2007 as directed by the Commission.

Upon review, the Commissioner notes that the penalty recommended by the Commission in its decision dated October 11, 2007 – suspension until attendance at the next scheduled training, and removal if the respondent did not so attend – is consistent with penalties historically imposed for violations of this type. However, in the present instance, the question of removal is moot in light of the respondent’s having attended training as directed, and no suspension can be effectuated because the training in question occurred prior to expiration of the period within which the respondent was entitled to submit exceptions to the Commissioner before her final ruling on the Commission’s recommendation. *N.J.A.C.* 1:6C-18.3(b). Thus, notwithstanding her concurrence with the Commission’s action in principle, the Commissioner cannot order the sanction recommended.

Under the circumstances, the Commissioner instead finds that the appropriate penalty for the respondent’s failure to attend training in a timely manner is a reprimand, so as to admonish him for disregarding the law and causing wasted administrative and adjudicative time at both State and local levels.

Accordingly, the above-named respondent is hereby reprimanded as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.\*

COMMISSIONER OF EDUCATION

Date of Decision: November 14, 2007

Date of Mailing: November 14, 2007

---

\* 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.*