

AGENCY DKT. NO. 180-6/08

IN THE MATTER OF RICHARD E. FILIPEK, :
SADDLE BROOK BOARD OF EDUCATION, : COMMISSIONER OF EDUCATION
BERGEN COUNTY. :
DECISION

The record of this matter and the decision of the School Ethics Commission (“Commission”), including the recommended penalty of censure, have been reviewed.

This matter comes before the Commissioner to impose a sanction upon Respondent Richard Filipek, member of the Saddle Brook Board of Education, based upon findings of fact and conclusions of law by the Commission that he violated *N.J.S.A.* 18A:12-24.1(c) of the School Ethics Act by being present in his capacity as president of the Board and running two closed session meetings of the Board where the tenure appointment of the middle/high school principal – the immediate supervisor of his wife, who is employed in the district – was discussed.

Upon issuance of the decision of the Commission, respondent was provided 13 days from the mailing of such decision to file written comments on the recommended penalty for the Commissioner’s consideration. No comments were submitted by or on behalf of Mr. Filipek.

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** unless a notice of appeal is filed pursuant to P.L. 2008, c. 36 and *N.J.A.C.* 6A:4. The Commissioner’s jurisdiction at this time is limited to

reviewing the sanction to be imposed following a finding of a violation by the Commission. Therefore, this decision is restricted solely to a review of the Commission's recommended penalty.

Upon a thorough review of the record, the Commissioner accepts the Commission's recommendation that censure is the appropriate penalty in this matter. As clearly stated in its decision, the Commission recommended the more stringent penalty of censure because "the respondent admitted that he knew he had a conflict in relation to employment matters involving the middle/high school principal." Moreover, the Commission also noted that "the respondent did more than sit in on the closed session discussions; he ran the closed session as president of the Board." The Commission further reasoned "[g]iven that the respondent knew he had a conflict of the type where the Commission has, in over a decade of caselaw, consistently maintained that recusal is necessary and noting that, rather than recuse himself from the discussions, he ran the closed sessions in his role as president of the board, the Commission believes that a censure is the appropriate penalty." (Commission Decision at 4-5) As such, the Commissioner finds no cause to disturb the Commission's recommended penalty in this matter.

Accordingly, IT IS hereby ORDERED that Richard E. Filipek be censured as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: July 23, 2008

Date of Mailing: July 23, 2008

*If respondent wishes to appeal the Commission's determination of violation, he may file a notice of appeal with the Commissioner pursuant to P.L. 2008, c. 36 and *N.J.A.C.* 6A:4 within 30 days of the date of mailing of this decision. If such a notice is filed, the decision concerning penalty will be reconsidered with the appeal.