

AGENCY DKT. NO. 56-2/16

IN THE MATTER OF ANN PETROCELLI, :
LINK COMMUNITY CHARTER SCHOOL, : COMMISSIONER OF EDUCATION
ESSEX COUNTY. : DECISION
_____:

The Commissioner has reviewed the record of this matter and the decision of the School Ethics Commission, finding that respondent violated the School Ethics Act for failure to timely attend charter school trustee training in accordance with *N.J.S.A. 18A:12-33*. The Commission's decision was forwarded pursuant to *N.J.S.A. 18A:12-29* for the Commissioner's final determination on the recommended penalty. The Commission advises that the respondent ultimately completed training after the issuance of its December 15, 2015 Order to Show Cause, but prior to the Commission's January 26, 2016 meeting; therefore, a penalty of censure is recommended. Respondent filed exceptions to the Commission's decision, challenging the Commission's recommended penalty, but did not institute an appeal, pursuant to *N.J.A.C. 6A:4*, of the Commission's underlying finding of violation. The Commission filed reply exceptions.

In her exceptions, respondent argues that based on prior decisions by the Commission, the Commissioner should reduce the recommended penalty of censure to a penalty of reprimand. Specifically, respondent cites case law indicating that the Commission has previously recommended a penalty of reprimand in matters where a respondent completed the requisite training after the Commission issued the Order to Show Cause, but prior to the Commission's meeting date. Respondent further notes that in most cases where the Commission previously recommended a penalty of censure, the facts may be distinguished from this matter as the board member or trustee in those cases did not complete the training prior to the Commission's meeting, but rather prior to the Commissioner's final decision. *See, e.g., In the*

Matter of Corynda Hagamin, Camden's Promise Charter School, Camden County, Commissioner Decision No. 15-11SEC, decided January 10, 2011. Accordingly, respondent urges that the penalty be reduced to a reprimand.

In reply, the Commission argues that a penalty of censure is appropriate, given the extensive outreach it provided to respondent prior to the issuance of the Order to Show Cause and the multiple opportunities respondent had to complete the training. Specifically, the Commission contends that the cases cited by respondent are distinguishable because the notice provided to respondent of the obligation to complete the training – no less than 17 times – did not happen in previous cases. The Commission also points out that there is no evidence that respondent did not receive the Commission's communications. As respondent never availed herself of the multiple opportunities to comply with *N.J.S.A.* 18A:12-33, the Commission contends that a penalty of censure is appropriate.

Upon review, the Commissioner concurs with respondent that in previous matters, when a respondent completed the requisite training after the issuance of the Order to Show Cause – but prior to the Commission's meeting date – the penalty has been a reprimand.¹ The Commissioner's determination of an appropriate sanction “inevitably requires consideration of penalties imposed in the past for similar conduct.” *In the Matter of the Tenure Hearing of*

¹ See, e.g., *In the Matter of Magda Nieves, Camden's Promise Charter School, Camden County*, Commissioner Decision No. 12-11SEC, decided January 10, 2011; *In the Matter of Jacqueline Phillips-Agins, Village Charter School, Mercer County*, Commissioner Decision No. 14-11SEC, decided January 10, 2011; *In the Matter of Linda Sterling, TEAM Academy Charter School, Essex County*, Commissioner Decision No. 17-11SEC, decided January 10, 2011; *In the Matter of Derek Capana, TEAM Academy Charter School, Essex County*, Commissioner Decision No. 18-11SEC, decided January 10, 2011; *In the Matter of Laurel Dumont, Newark Educators Charter School, Essex County*, Commissioner Decision No. 19-11SEC, decided January 10, 2011; *In the Matter of Deborah Burns, Academy Charter High School, Monmouth County*, Commissioner Decision No. 20-11SEC, decided January 10, 2011; *In the Matter of Richard Morales-Wright, Academy Charter High School, Monmouth County*, Commissioner Decision No. 24-11SEC, decided January 10, 2011; *In the Matter of Maria Littles, Chesilhurst Board of Education, Camden County*, Commissioner Decision No. 25-11SEC, decided January 10, 2011; *In the Matter of Adam Szpreingel, LEAP Academy Charter School, Camden County*, Commissioner Decision No. 28-11SEC, decided January 10, 2011; *In the Matter of Gerald Murray, Woodbine Board of Education, Cape May County*, Commissioner Decision No. 29-11SEC, decided January 10, 2011.

Brigitte Geiger, School District of the Township of Mount Olive, Morris County, No. A-1409-13T2 (App. Div. Nov. 18, 2015), at 20.² As such, the Commissioner finds that a penalty of reprimand is appropriate in consequence of respondent's failure to timely honor an obligation placed upon charter school trustees by law. As suggested by the court in the *Geiger* opinion, however, this shall serve as notice to the regulated community that similar conduct in the future may result in more severe penalties. Respondent is also admonished for causing the unnecessary expenditure of administrative and adjudicative resources at both State and local levels.

Accordingly, respondent is hereby reprimanded as a school official found to have violated the School Ethics Act.³

IT IS SO ORDERED.⁴

COMMISSIONER OF EDUCATION

Date of Decision: April 11, 2016

Date of Mailing: April 12, 2016

² Although, pursuant to *R. 1:36-3*, unpublished opinions are not precedential or binding upon any court, the Appellate Division remanded this matter and directed the Commissioner to impose a lesser sanction consistent with those in prior matters.

³ The Commission recommended that any failure in the future to comply with the statutory requirement to complete training shall result in the removal of the respondent from her position on the Board for a period of three years. Under *N.J.A.C. 6A:28-10.12(a)*, if a violation of the School Ethics Act is found, "the Commission may recommend to the Commissioner the reprimand, censure, suspension, or removal of the school official." There is no provision that permits the Commission to recommend a penalty that includes the automatic removal of a school official for three years for future violations. Therefore, the respondent is reprimanded as a school official found to have violated the School Ethics Act without any future restrictions.

⁴ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*. (*N.J.S.A. 18A:6-9.1*).