

8-17SEC

AGENCY DKT. NO. 326-11/16

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|-------------------------------|---|---------------------------|
| IN THE MATTER OF KIRK HARRIS, | : | |
| WOODLAND TOWNSHIP BOARD OF | : | COMMISSIONER OF EDUCATION |
| EDUCATION, BURLINGTON COUNTY. | : | DECISION |

The record of this matter and the decision of the School Ethics Commission (Commission), forwarded to the Commissioner pursuant to *N.J.S.A.* 18A:12-29 for final determination on the Commission’s recommended penalty, have been reviewed. The Commission found that respondent violated the School Ethics Act for failure to complete training in accordance with *N.J.S.A.* 18A:12-33. Due to respondent’s failure to satisfy the long-standing requirement – despite repeated notifications and ample opportunity to complete the training, either in-person or online – the Commission recommends a sanction of suspension for 30 days. If the respondent fails to complete the training by the end of the 30 day period, the Commission recommends that the respondent be removed from his position. Respondent did not file exceptions, nor has he submitted proof that he completed the required training. Respondent also did not appeal the Commission’s underlying finding of violation pursuant to *N.J.A.C.* 6A:4.

Upon review, the Commissioner concurs with the penalty recommended by the Commission and additionally admonishes respondent for failing to honor an obligation placed upon school officials by law, since such failure has resulted in unnecessary expenditure of administrative and adjudicative resources at both State and local levels. Accordingly, the respondent is suspended from his position as a school official and is hereby ordered to complete the required training within 30 days from the date of this decision. If the respondent does not complete the training within 30 days from the date of this decision, the respondent shall be removed from his position as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 9, 2017
Date of Mailing: January 11, 2017

* 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)

**IN THE MATTER OF
KIRK HARRIS
WOODLAND TOWNSHIP BOARD OF
EDUCATION,
BURLINGTON COUNTY**

**: BEFORE THE
: SCHOOL ETHICS COMMISSION
: DECISION FOR FAILURE
: TO COMPLETE TRAINING
: IN A TIMELY MANNER
: DOCKET NO. T01-16
:**

PROCEDURAL HISTORY

This matter arises from an Order to Show Cause (OTSC) issued by the School Ethics Commission (Commission) at its meeting on September 27, 2016, and mailed on September 28, 2016 via regular and certified mail, return receipt requested, directing Respondent, a “board member” as defined in N.J.S.A. 18A:12-23 of the School Ethics Act (Act), to show cause as to why the Commission should not find Respondent in violation of the Act, N.J.S.A. 18A:12-21 et seq., for failure to complete training as required by N.J.S.A. 18A:12-33, N.J.A.C. 6A:28-4.1, and N.J.A.C. 6A:11-3.1(a).

In the OTSC mailed on September 28, 2016, the Commission notified Respondent that he had twenty (20) days to respond to the OTSC, and advised that failure to respond would be deemed an admission of the facts set forth in the OTSC. Respondent was further notified that, upon receipt of the response or upon expiration of the twenty (20) day time period for so filing, the Commission may proceed to a determination of a violation on a summary basis (i.e., without a hearing or further proceedings) in accordance with N.J.A.C. 6A:28-1.6(c), which so permits when material facts are not in dispute. Respondent did not submit a response to the OTSC, or otherwise complete training as required by N.J.S.A. 18A:12-33, N.J.A.C. 6A:28-4.1, and N.J.A.C. 6A:11-3.1(a).

ANALYSIS

The Act was enacted by the New Jersey State Legislature to ensure and preserve public confidence in school board members and charter school trustees. N.J.S.A. 18A:12-33, N.J.A.C. 6A:28-4.1, and N.J.A.C. 6A:11-3.1(a) require each board member and charter school trustee to complete training on an annual basis.

Respondent is a member of the Woodland Township Board of Education located in the City of Chatsworth, County of Burlington. As a result of his position as a board of education member, and in accordance with the statute and regulations cited above, Respondent is required to complete a training program prepared and offered by the New Jersey School Boards Association (NJSBA) on an annual basis. For convenience and ease, the training is offered online and, in this way, a board member or charter school trustee may complete it at any time, from anywhere. For the 2015 training cycle, Respondent was required to complete the Governance 1 training program.

On January 19, 2016, NJSBA provided the Commission with the names of those school board members who failed to complete mandated training in 2015 – the list provided by NJSBA included Respondent. Prior to this time, communications about mandated training were sent to Respondent on November 18, 2015, December 14, 2015, and January 8, 2016. After January 19, 2016, NJSBA sent reminder communications to Respondent on June 30, 2016 and July 5, 2016.

NJSBA also sent reminder communications to Respondent's Business Administrator on April 1, 2016, April 15, 2016, June 14, 2016 and July 12, 2016. Notwithstanding these communications, Respondent did not complete the training.

In addition to the communication efforts undertaken by the NJSBA, the Respondent's County Office of Education (County) also communicated with the Respondent regarding his failure to complete the mandated training requirement. More specifically, in August, 2016, the Commission notified the County that the NJSBA identified Respondent as a school official who failed to complete training in 2015. As a result, the County sent correspondence to Respondent, with a copy to the Business Administrator and the Solicitor, advising that Respondent remained delinquent in completing training. Notwithstanding this correspondence from the County, Respondent did not complete training as directed.

As a final warning, the Commission sent a letter to Respondent dated September 13, 2016, via regular and certified mail, advising him that the Commission requires completion of the training to avoid the issuance of an OTSC for non-compliance. This final warning letter detailed instructions for how Respondent could complete training. Again, notwithstanding this correspondence, Respondent did not complete the required training. As a result, an OTSC was mailed to Respondent on September 28, 2016.

To date, there is no dispute that Respondent did not complete his required training within the 2015 training cycle, and did not complete the training prior to the issuance of the Commission's OTSC. Further, there is no dispute that Respondent failed to respond to the Commission's OTSC as to why he did not complete the training in 2015.

DECISION/PENALTY RECOMMENDATION

N.J.A.C. 6A:28-4.2(d) provides that board members and trustees who fail to comply with the training mandate shall be considered in violation of N.J.S.A. 18A:12-33. Based on the record as set forth above, at its meeting on October 24, 2016, the Commission found that Respondent violated N.J.S.A. 18A:12-33. Respondent received repeated notifications of the long-standing training requirement, and has had ample opportunity to complete the mandated training.

Where a violation of the Act is found by the Commission, the Commission may recommend to the Commissioner of Education the reprimand, censure, suspension or removal of the school official. N.J.A.C. 6A:28-10.12. The Commission recommends that the Commissioner of Education impose a sanction of **suspension for thirty (30) days** for failure to complete the mandatory training, with such suspension to become effective immediately upon adoption by the Commissioner of Education. Further, if Respondent fails to submit written documentation to the Commission confirming that he completed training within the period of his suspension, the Respondent shall be **removed from office on the thirty-first (31st) day**.

Pursuant to N.J.S.A. 18A:12-29(c), this decision shall be forwarded to the Commissioner of Education for review of the Commission's recommended sanction. Respondent may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's finding of violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of violation.

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of violation may file, within **thirteen (13) days** from the date the Commission's decision is forwarded to the Commissioner, written exceptions regarding the recommended penalty to the Commissioner. The forwarding date shall be the mailing date to the parties, indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, New Jersey 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the Commission and all other parties.

Parties seeking to appeal the Commission's finding of violation *must* file an appeal pursuant to the standards set forth at N.J.A.C. 6A:4 within **thirty (30) days** of the filing date of the decision from which the appeal is taken. The filing date shall be three (3) days after the date of mailing to the parties, as shown below. In such cases, the Commissioner's review of the Commission's recommended sanction will be deferred and incorporated into the Commissioner's review of the finding of violation on appeal. Where a notice of appeal has been filed on or before the due date for exceptions to the Commission's recommended sanction (thirteen (13) days from the date the decision is mailed by the Commission), exceptions need not be filed by that date, but may be incorporated into the appellant's briefs on appeal.

Robert W. Bender
Chairperson

Mailing Date: November 23, 2016

I hereby certify that this decision was duly adopted by the School Ethics Commission at its public meeting on November 22, 2016.

Kathryn A. Whalen, Acting Executive Director

**IN THE MATTER OF
KIRK HARRIS
WOODLAND TOWNSHIP BOARD OF
EDUCATION,
BURLINGTON COUNTY**

**: BEFORE THE
: SCHOOL ETHICS COMMISSION
: DECISION FOR FAILURE
: TO COMPLETE TRAINING
: IN A TIMELY MANNER
: DOCKET NO. T01-16
:**

WHEREAS, Kirk Harris is a Board member of the Woodland Township Board of Education; and

WHEREAS, at its meeting on September 27, 2016, the School Ethics Commission (Commission) issued an Order to Show Cause (OTSC) directing Mr. Harris to show cause why he failed to complete his 2015 mandatory training as identified by the New Jersey School Boards Association (NJSBA) and as required by N.J.S.A. 18A:12-33, N.J.A.C. 6A:28-4.1, and N.J.A.C. 6A:11-3.1(a); and

WHEREAS, Mr. Harris failed to file a response to the OTSC; and

WHEREAS, at its meeting on October 24, 2016, the Commission found that Mr. Harris violated N.J.S.A. 18A:12-33, N.J.A.C. 6A:28-4.1, and N.J.A.C. 6A:11-3.1(a) by failing to complete the 2015 training requirement he was obligated to complete; and

WHEREAS, at its meeting on October 24, 2016, the Commission recommended that the Commissioner of Education impose a sanction of suspension for thirty (30) days, with such suspension to become effective immediately upon adoption by the Commissioner of Education; and

WHEREAS, if at the conclusion of thirty (30) days, Respondent fails to submit written documentation to the Commission confirming that he completed training within the period of his suspension, the Respondent shall be removed from the Woodland Township District Board of Education on the thirty-first (31st) day; and

WHEREAS, at its meeting on November 22, 2016, the Commission agreed that the within decision accurately memorializes its findings and recommendations; and

NOW THEREFORE BE IT RESOLVED, that the Commission hereby adopts the within decision and directs its staff to notify all parties to this action of the decision.

Robert W. Bender, Chairman
School Ethics Commission

I certify that the within Resolution was duly adopted by the School Ethics Commission at its public meeting on November 22, 2016.

Kathryn A. Whalen, Acting Executive Director