
IN THE MATTER OF	:	BEFORE THE SCHOOL
DAVID EICHENHOLTZ	:	ETHICS COMMISSION
	:	
<i>EAST NEWARK BOARD OF</i>	:	DECISION FOR FAILURE TO
<i>EDUCATION,</i>	:	FILE PERSONAL/RELATIVE
HUDSON COUNTY	:	AND FINANCIAL DISCLOSURE
	:	STATEMENTS
	:	
	:	DOCKET NO.: D02-17

PROCEDURAL HISTORY

This matter arises from an Order to Show Cause (OTSC) issued by the School Ethics Commission (Commission) at its meeting on August 22, 2017, and mailed on August 23, 2017, through regular and electronic mail,, directing Respondent, a “school official” as defined in N.J.S.A. 18A:12-23 of the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq., to show cause as to why the Commission should not find him in violation of the Act for failing to file Personal/Relative and Financial Disclosure Statements (Disclosure Statements) as required by N.J.S.A. 18A:12-25, N.J.S.A. 18A:12-26, and N.J.A.C. 6A:28-3.1.

The OTSC issued by the Commission provided notification to Respondent that he had twenty (20) days to respond to the OTSC, and 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.

ANALYSIS

The Act was enacted by the New Jersey State Legislature to ensure and preserve public confidence in members of local boards of education and local school administrators. Annually, on or before April 30th of each year, all school officials, as defined in N.J.S.A. 18A:12-23, must file Disclosure Statements with their local board secretaries or charter school designees. N.J.A.C. 6A:28-3.1(a). In addition, after the April 30th filing date, all newly elected board members or board members appointed to fill vacancies, newly appointed members of a board of trustees of a charter school, and administrators appointed to fill a vacancy must file their Disclosure Statements within thirty (30) days of appointment or taking office. N.J.A.C. 6A:28-3.1(c), (d), (e) and (f).

Respondent is a returning school official and, therefore, was required to file his Disclosure Statements by April 30, 2017. Respondent failed to file his Disclosure Statements within the statutorily required timeframe.

Consequently, by letter dated August 8, 2017, the Commission informed Respondent that failure to file his Disclosure Statements by August 18, 2017, would result in the Commission

voting to issue an OTSC. The Commission further advised that, if an OTSC issued, Respondent would be assessed a penalty, up to and including removal.

When Respondent failed to file his Disclosure Statements as required by N.J.S.A. 18A:12-25, N.J.S.A. 18A:12-26, and N.J.A.C. 6A:28-3.1 by August 18, 2017, an OTSC was issued by the Commission at its meeting on August 22, 2017. After having been served with the OTSC, Respondent filed his completed Disclosure Statements on August 30, 2017. Respondent also filed a response to the OTSC, and alleged that he “did not receive any original emails with this request.”

DECISION/PENALTY RECOMMENDATION

Based on the record as set forth above, at its meeting on September 26, 2017, the Commission found that Respondent violated N.J.S.A. 18A:12-25, N.J.S.A. 18A:12-26, and N.J.A.C. 6A:28-3.1. Where a violation of the Act is found by the Commission, it may recommend to the Commissioner of Education that a penalty be imposed on the school official. The recommended penalty can include a 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 penalty of **reprimand**.

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 penalty. Respondent may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission’s finding of a violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of a violation.

Parties taking exception to the recommended penalty 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, as 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:4-1 et seq. 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 brief on appeal.

Robert W. Bender, Chairperson

Mailing Date: November 1, 2017

