

SEC # C64-06
C # 472-07SEC
SB # 1-08

IN THE MATTER OF THE CENSURE OF :
RAYMOND A. DELBURY PURSUANT TO : STATE BOARD OF EDUCATION
N.J.S.A. 18A:12-21 et seq., BOARD OF : DECISION
EDUCATION OF THE SUSSEX-WANTAGE :
REGIONAL SCHOOL DISTRICT, SUSSEX :
COUNTY. :

Decided by the School Ethics Commission, October 30, 2007

Decided by the Commissioner of Education, December 6, 2007

Decision on motion by the State Board of Education, March 19,
2008

For the Respondent-Appellant, Donald P. Hogan, Esq.

For the Participant School Ethics Commission and the
Commissioner of Education, Melissa T. Dutton, Deputy
Attorney General (Anne Milgram, Attorney General of New
Jersey)

The State Board affirms for the reasons expressed therein the decision of the School Ethics Commission ("Commission") that the Respondent-Appellant, a member of the Sussex Wantage Regional Board of Education had violated N.J.S.A. 18A:12-24.1 (d), (e), (i) and (j) of the Code of Ethics for School Board Members. We also affirm for the reasons expressed therein the decision of the

Commissioner of Education that censure of the Respondent-Appellant was the appropriate penalty.

In so doing, we note the Respondent-Appellant's contention that the Commission violated his procedural rights by not issuing a finding of probable cause in accordance with N.J.S.A. 18A:12-29b. We conclude, however, that the Respondent-Appellant failed to apply the correct section of this statute. It is the second paragraph of the aforementioned statute that applies to Code of Ethics violations. This portion provides:

In making a determination regarding an alleged violation of the Code of Ethics for School Board Members, the burden of proof shall be on the accusing party to establish factually a violation of the code. A decision regarding a complaint alleging violations of the code shall be rendered by the commission within 90 days of the receipt of the complaint by the commission.

In addition, N.J.A.C. 6A:28-6.8 outlines the procedures for processing complaints alleging violations of only the Code of Ethics. Neither the statute nor the regulation referenced above mandate that the Commission issue a finding of probable cause for code of ethics violations. Accordingly, we agree with the Commissioner that there is no basis upon which to disturb the Commission's recommendation.

Florence McGinn did not participate in the vote.

June 18, 2008

Date of mailing _____