

AGENCY DOCKET NO. 472-12/97

IN THE MATTER OF DAVID W. FULLER, :
IRVINGTON TOWNSHIP BOARD OF : COMMISSIONER OF EDUCATION
EDUCATION, ESSEX COUNTY. : DECISION
_____:

The record of this matter and the decision of the School Ethics Commission finding that Mr. Fuller violated the School Ethics Act, *N.J.S.A.* 18A:12-24(d), by his service as both a Board member and Township business administrator and recommending a penalty of removal from the Board if he failed to resign from one of these positions by December 16, 1997, has been reviewed. Upon issuance of the decision of the School Ethics Commission, Mr. Fuller was accorded thirteen days to file written comments with respect to the recommended penalty for the Commissioner's consideration. Mr. Fuller's comments were timely filed in accordance with the established timeline.

Mr. Fuller's comments dispute the substantive determination of the School Ethics Commission, that his simultaneous service as a Board member and Township business administrator violates the School Ethics Act, a determination which the Commissioner of Education is not empowered to review, in that his jurisdiction is solely limited to reviewing the sanction, if any, to be imposed following the finding of a violation by the Commission.

By letter dated December 17, 1997, from the Director of the Bureau of Controversies and Disputes, which was transmitted via facsimile to counsel for Mr. Fuller, counsel was directed to advise, via return facsimile, whether Mr. Fuller had resigned from one of his positions as directed in the Commission's letter dated December 3, 1997. Counsel's response to this inquiry was that Mr. Fuller had not resigned either of his positions.

Upon a thorough review of the record, the Commissioner determines to accept the Commission's recommendation that removal from his Board position is the appropriate penalty in view of the Commission's determination that, pursuant to *N.J.S.A. 18A:12-24(d)*, Mr. Fuller may not serve as both a Board member and Township business administrator.

Accordingly, IT IS HEREBY ORDERED that David W. Fuller is removed from the Board of Education of the Township of Irvington as of the date of this decision.

COMMISSIONER OF EDUCATION

JANUARY 21, 1998