

56-99 SEC

AGENCY DKT. NO. 488-10/98

IN THE MATTER OF RICHARD LONGO :  
AND FRANK SEDAGHI, TOMS RIVER : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION, OCEAN COUNTY. : DECISION  
\_\_\_\_\_ :

The record of this matter and the decision of the School Ethics Commission (“Commission”) have been reviewed. Comments urging rejection of the Commission’s determination and recommended penalty were timely filed by respondents. Additionally, on January 20, 1999, attorney for respondents filed a motion seeking that the Commissioner stay his determination in this matter pending appeal of the underlying Commission determination to the State Board of Education. The Complainant in the matter before the Commission filed a timely objection to such stay.

Initially, the Commissioner notes that *N.J.A.C. 6:2-1.1(a)3* expressly provides that appeal of School Ethics Commission decisions finding violation of the School Ethics Act may be taken to the State Board “at such time as the Commissioner’s decision regarding the sanction has been rendered,” so that a stay of determination by the Commissioner pending appeal to the State Board would be contrary to rule. Accordingly, the Commissioner denies respondents’ motion to defer decision on the recommended sanction.

The Commissioner further notes that his sole role in matters of this type, as established by statute, *N.J.S.A. 18A:12-29*, is to consider whether the penalty recommended by the Commission is appropriate in view of the Commission’s underlying determination that a respondent’s actions constituted a violation of the School Ethics Act; that determination, which is expressly *not* reviewable by the Commissioner, is instead appealed directly to the State Board. In effect, while the Commissioner may not agree with the Commission’s underlying determination, he must proceed from the premise that it is correct, and then assess whether the recommended penalty is appropriate based upon it.

Therefore, upon a thorough review of the record, given that the Commission has determined that a violation of *N.J.S.A. 18A:12-24(c)* occurred and that a penalty from among

those prescribed at *N.J.S.A.* 18A:12-29(c) and *N.J.A.C.* 6:3-9.19(c) is warranted for each respondent, and given that the Commissioner may not review this determination herein, the Commissioner concurs with the Commission's recommendation that the lowest penalty of reprimand is appropriate in this matter. The Commissioner additionally concludes, however, that *implementation* of such penalty is appropriately stayed until such time as the State Board rules on respondents' appeal.

Accordingly, IT IS ORDERED that, contingent upon a finding by the State Board of Education that a violation of the School Ethics Act occurred and that the penalty recommended by the Commission and herein affirmed by the Commissioner is warranted, Richard Longo and Frank Sedaghi each be reprimanded as a school official found to have violated the School Ethics Act.<sup>1</sup>

COMMISSIONER OF EDUCATION

March 4, 1999

---

<sup>1</sup> This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6:2-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.