

169-00

IN THE MATTER OF BRUCE WHITE, :
EWING TOWNSHIP BOARD OF :
EDUCATION, MERCER COUNTY. :
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SYNOPSIS

Citing *In the Matter of Frank Pannucci*, the School Ethics Commission concluded that respondent violated *N.J.S.A. 18A:12-24(c)* of the School Ethics Act when, as a Board member, he negotiated and voted on a contract with a local bargaining unit where his wife was a member of the same statewide general union. The Commission recommended that the Commissioner impose a penalty of removal from the Board.

During the pendency of the administrative proceedings, the State Board of Education reversed the Commission's decision in *Pannucci*. The Commissioner found that, given the change in law that had occurred during the ongoing proceedings in this matter, he could not adequately assess the Commission's recommended penalty without having the benefit of that body's review of its decision in light of the State Board's ruling in *Pannucci*. The Commissioner, therefore, returned the matter to the Commission so that it could determine what effect, if any, the State Board's reversal of prior decisional law might have on its finding of violation and recommended penalty.

In its decision on return, the Commission considered the effect of the *Pannucci* decision on its finding of a violation and the penalty recommendation. The Commission reaffirmed that respondent violated *N.J.S.A. 18A:12-24(c)* of the School Ethics Act and added that the facts also established a violation of *N.J.S.A. 18A:12-24(a)* and (b) and reaffirmed its recommendation that the Commissioner impose a penalty of removal from the Board.

The Commissioner reiterated that the findings and conclusions of the Commission as to what occurred or whether it was a violation of the School Ethics Act are outside the scope of the Commissioner's review and must be accepted by him in reviewing the Commission's recommended penalty. The Commissioner determined that the violations of *N.J.S.A. 18A:12-24(b)* and (c) found by the Commission were insufficient to warrant the extreme result of respondent's removal from elected office. The Commissioner determined that the appropriate penalty to be imposed upon respondent as a school official found to have violated *N.J.S.A. 18A:12-24(a)*, (b) and (c) of the School Ethics Act, under the circumstances set forth by the Commission, was suspension from the Ewing Board of Education for a period of 45 days.

June 1, 2000

IN THE MATTER OF BRUCE WHITE, :
EWING TOWNSHIP BOARD OF : COMMISSIONER OF EDUCATION
EDUCATION, MERCER COUNTY. : DECISION
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The decision of the School Ethics Commission (Commission) and the comments submitted by the respondent Board member, Bruce White, have been reviewed.

In undertaking such review, the Commissioner is mindful that, pursuant to *N.J.S.A.* 18A:12-29(c) and its implementing rules, he may not review the findings and conclusions of the Commission as to violation of the School Ethics Act. Even accepting, however, that Mr. White has violated *N.J.S.A.* 18A:12-14(a), (b) and (c) in the manner set forth by the Commission, the Commissioner notes that removal of an elected official from public office is the ultimate penalty for violation of the School Ethics Act, that decisional law is evolving with respect to violations of the type found to have been committed by Mr. White, and that penalties assessed against board members for other instances of violation under the same provisions of the School Ethics Act have generally been less severe than removal.^{1,2}

¹ Since the establishment of the School Ethics Act, no board member found guilty of violating *N.J.S.A.* 18A:12-14(a), (b) and/or (c) has ever been given the extreme penalty of removal from the board. Further, there has been only one instance in which a board member was suspended; in *In the Matter of Salvatore Buono*, decided by the Commissioner, April 9, 1996, a one-month suspension was imposed on a board member who voted on the award of contracts to his business partner/transportation director and also voted on the renewed contract of his emancipated daughter. There have been a number of censures for violation of the same provisions of the School Ethics Act. See, for example, *In the Matter of William Gunning*, decided by the Commissioner July 29, 1994; *In the Matter of Mark Connolly*, decided by the Commissioner June 23, 1997; and *In the Matter of James Russo*, decided by the Commissioner April 16, 1998.

² In *Scannella v. Scudillo*, 95 *N.J.A.R.2d* (EDU) 190, *rev'd and remanded* State Board 195, decided by the Commissioner June 10, 1997, the board member was censured for casting the deciding vote for her son-in-law as superintendent and for selling gloves to district employees. However, at the time when the penalty for violation was determined, Ms. Scudillo was no longer a member of the Board, so that the penalties of suspension or removal from office were no longer possibilities.

Accordingly, the Commissioner determines that the appropriate penalty to be imposed upon Bruce White, as a school official found to have violated *N.J.S.A.* 18A:12-24(a), (b) and (c) of the School Ethics Act, under the circumstances set forth by the Commission, is suspension as a member of the Ewing Township Board of Education for a period of 45 days from the date of this decision.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: June 1, 2000

Date of Mailing: June 1, 2000

³ This decision, as the Commissioner's final determination, 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.