

ROBERT CRYSTAL,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
TOWNSHIP OF BARNEGAT, OCEAN	:	
COUNTY,	:	
	:	
RESPONDENT.	:	
	:	
_____	:	

SYNOPSIS

Petitioning Board member appealed respondent Board’s censure of him for violating Board Policy No. 090, Article IX, prohibiting any Board member from making a presentation regarding any Board-related matter or releasing information concerning the Board’s business until that member has notified all other Board members at least five days prior to presentation or dissemination.

At the OAL the parties cross-moved for summary decision. The ALJ denied petitioner’s motion for summary decision and entered summary decision for respondent, concluding that petitioner violated the Board policy, causing the Board to impose the discipline of censure for his act, by speaking to the media after a closed session of the Board discussing potential ethical complaints against him. The ALJ further determined that the policy did not violate petitioner’s First Amendment rights since it exempts members from its provisions if they issue a disclaimer that they are speaking as private citizens and they do not disseminate privileged, executive session material that has not been declassified. Thus, the ALJ concluded that the Board’s action was not arbitrary, capricious or unreasonable.

OAL DKT. NO. EDU 2398-99
AGENCY DKT. NO. 37-3/99

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The record and Initial Decision issued by the Office of Administrative Law have been reviewed. No exceptions were filed by the parties.

Upon review of the record, the Commissioner agrees with and adopts as his own the recommendation of the Administrative Law Judge to dismiss the petitioner's application for summary decision and to enter summary decision on behalf of the Board for the reasons set forth in the Initial Decision.

Accordingly, the Petition of Appeal is hereby dismissed.*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

January 18, 2000

* 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.