

652-03 SEC

IN THE MATTER OF DR. JONATHAN :
HODGES, BOARD OF EDUCATION OF : COMMISSIONER OF EDUCATION
THE STATE-OPERATED SCHOOL : DECISION
DISTRICT OF THE CITY OF :
PATERSON, PASSAIC COUNTY. :
_____ :

SYNOPSIS

The School Ethics Commission determined that respondent Board member violated *N.J.S.A.* 18A:12-24(a) of the School Ethics Act due to conflict of interest. A fellow Board member alleged that respondent had interest in a preschool that had a contract with the District and that he voted to approve payments to the preschool.

After considering the nature of the charges, and the fact that the preschool no longer was under contract to the District, the Commission recommended the penalty of reprimand. The Commission found that even though respondent sold his shares in the preschool, he held the note for the sale of his shares and had received at least one payment drawn on the preschool's general business account.

Upon review of the record, the Deputy Commissioner, whose decision was restricted solely to a review of the Commission's recommended penalty, concurred with the Commission's recommendation and, thus, ordered respondent reprimanded as a school official found to have violated the School Ethics Act.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.
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December 15, 2003

IN THE MATTER OF DR. JONATHAN :
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THE STATE-OPERATED SCHOOL : DECISION
DISTRICT OF THE CITY OF :
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_____:

The Deputy Commissioner, to whom this matter has been delegated pursuant to *N.J.S.A.* 18A:4-33, has reviewed the decision of the School Ethics Commission (Commission) and the record of this matter. The matter comes before the Commissioner pursuant to *N.J.S.A.* 18A:12-29(c) and *N.J.A.C.* 6A:3-9.1 to impose a sanction upon respondent, a member of the Board of Education of the Paterson State-operated School District, based on the Commission’s finding that respondent violated the School Ethics Act. Specifically, the Commission found that respondent violated *N.J.S.A.* 18A:12-24(a) by maintaining an interest, through receipt of a Promissory Note payment drawn on the general business account of the program, from the new owner of a daycare/after-school program formerly co-owned by him and performing, during the time relevant to these proceedings,¹ under a contract with the District. For that violation, the Commission recommended that respondent be reprimanded.

Respondent filed a timely comment on the Commission’s decision, wherein he notes his continuing disagreement with the Commission’s interpretation of “interest” as set forth in *N.J.S.A.* 18A:12-24(a), but indicates that, if the Commission’s

¹ As noted by the Commission, the program in question is no longer under contract to the District.

interpretation is accepted, the recommended reprimand is a fair penalty for the violation found. (Respondent's Comment at 1)²

At the outset, the Deputy Commissioner emphasizes that, in accordance with *N.J.S.A.* 18A:12-29(c) and *N.J.A.C.* 6A:3-9.1, only the School Ethics Commission may determine whether a violation of the School Ethics Act has occurred, and that the Commission's decision in that regard, including its underlying conclusions of law, is not reviewable by the Commissioner. Rather, the Commissioner's jurisdiction is limited to review of any sanction the Commission may recommend based upon its determination that a school official has violated the Act.

Given the limitations of the Commissioner's review and upon full consideration of the record in this matter, the Deputy Commissioner finds no cause to disturb the Commission's recommended sanction, which fairly considers both the nature and the circumstances of respondent's offense.

Accordingly, for the reasons expressed in the decision of the School Ethics Commission, IT IS hereby ORDERED that Dr. Jonathan Hodges be reprimanded as a school official found to have violated the School Ethics Act.³

DEPUTY COMMISSIONER OF EDUCATION

Date of Decision: December 15, 2003

Date of Mailing: December 16, 2003

² Comments were also submitted by the Complainant in the underlying school ethics matter; however, these were not considered by the Commissioner. *In re Pannucci*, decided by the State Board of Education March 1, 2000.

³ This decision may be appealed to the State Board of Education in accordance with *N.J.S.A.* 18A:6-27 *et seq.*, *N.J.S.A.* 18A:12-29(d) and *N.J.A.C.* 6A:4-1.1 *et seq.* Pursuant to the latter, Commissioner decisions are deemed filed three days after the date of mailing to the parties.