

#410-09 (SEC Decision: <http://www.nj.gov/education/legal/ethics/2009/C20-09.pdf>)

SEC NO. C20-09

AGENCY DKT. NO. 299-10/09

IN THE MATTER OF JOSE “ALEX” YBARRA, :  
PASSAIC CITY BOARD OF EDUCATION, : COMMISSIONER OF EDUCATION  
PASSAIC COUNTY. : DECISION

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The record of this matter and the decision of the School Ethics Commission (“Commission”), including the recommended penalty of reprimand, have been reviewed.

This matter comes before the Commissioner to impose a sanction upon Respondent Jose “Alex” Ybarra, a member of the Passaic City Board of Education, based upon findings of fact and conclusions of law by the Commission that he violated *N.J.S.A. 18A:12-24(b)* of the School Ethics Act by posting online “private” information – to which he had access by virtue of his position as a school board member – about Mayor Alex Blanco in an effort to discredit the Mayor prior to the May 12, 2009 mayoral election to the benefit of the Mayor’s opponent, for whom the respondent served as campaign manager.

Upon issuance of the decision of the Commission, respondent was provided 13 days from the mailing of such decision to file written comments on the recommended penalty for the Commissioner’s consideration. No comments were submitted by or on behalf of Mr. Ybarra.

Initially, it must be emphasized that pursuant to *N.J.S.A. 18A:12-29(c)* and *N.J.A.C. 6A:3-9.1*, the determination of the Commission as to violation of the School Ethics Act is **not reviewable by the Commissioner** unless a notice of appeal is filed pursuant to P.L. 2008,

c. 36 and *N.J.A.C. 6A:4*, which did not happen here. Therefore, the Commissioner's jurisdiction at this time is limited to reviewing the sanction to be imposed following a finding of a violation by the Commission. Therefore, this decision is restricted solely to a review of the Commission's recommended penalty.

Upon a thorough review of the record, the Commissioner accepts the Commission's recommendation that reprimand is the appropriate penalty in this matter. As clearly stated in its decision, the Commission finds this penalty congruent with that imposed in previously decided similar cases. As such, the Commissioner finds no cause to disturb the Commission's recommended penalty in this matter.

Accordingly, IT IS hereby ORDERED that Jose "Alex" Ybarra be reprimanded as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.\*

#### COMMISSIONER OF EDUCATION

Date of Decision: December 14, 2009

Date of Mailing: December 14, 2009

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\* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*)