

AGENCY DKT. NO. 4-5/18A  
SCHOOL ETHICS DKT. NO. T30-16

IN THE MATTER OF OBDULIA GONZALEZ, :  
BOARD OF EDUCATION OF THE CITY OF : COMMISSIONER OF EDUCATION  
PERTH AMBOY, MIDDLESEX COUNTY. : DECISION  
\_\_\_\_\_ :

The record of this matter and the decision of the School Ethics Commission (Commission) have been reviewed. This matter involves an appeal of the Commission's July 25, 2017 decision finding that the respondent-appellant Obdulia Gonzalez (respondent) violated the School Ethics Act for failure to timely complete training in accordance with *N.J.S.A.* 18A:12-33. The Commission recommended a penalty of reprimand for the violation. The respondent filed a Notice of Appeal protesting the Commission's finding of a violation pursuant to *N.J.A.C.* 6A:4-1.3(c). In a decision dated March 28, 2018, the Commissioner found that the Commission's determination that respondent violated *N.J.S.A.* 18A:12-33 was not arbitrary, capricious or contrary to law. *N.J.A.C.* 6A:4-4.1(a). However, the Commissioner did not accept the Commission's recommendation of a reprimand, and instead remanded this matter to the Commission for further determination of the appropriate penalty. On remand, the Commission considered the appropriate penalty to be imposed in this matter, and again recommended a penalty of reprimand for the respondent's violation of the School Ethics Act.

On appeal, the respondent again argues that the extenuating circumstances in this matter would render a penalty in this case unjust and unwarranted. Even if the Commissioner finds that there was a technical violation of the statute, equitable considerations mandate that the Commissioner decline to impose a penalty against the respondent. Respondent believed that she did in fact complete her training prior to the December 31, 2016 deadline, and when she was finally apprised of the fact that the training was incomplete, she immediately rectified the situation on

May 5, 2017. Prior to May 2017, neither the respondent nor the Perth Amboy School District received any notification indicating that there were deficiencies in her training requirements. Had respondent been properly advised of the training deficiencies in a timely manner, she would have promptly re-taken the training that she believed she completed on December 16, 2016. Finally, the respondent has been a school board member for eight years; she has always completed her training on time; and she completed her training in May 2017, despite undergoing surgery and radiation treatments for cancer between February and April 2017. Therefore, the respondent contends that the Commissioner should reject the Commission's recommendation and determine that no penalty should be imposed on the Respondent.

In reply, the Commission states that it is undisputed that the respondent did not timely complete the required training by December 31, 2016; therefore, it is clear that the respondent violated the School Ethics Act. *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1. Moreover, precedent exists for the Commissioner to impose a penalty of a reprimand, which is the lowest possible penalty the Commission may recommend. resulting from a school board member's failure to timely complete a required training program. The Commission also emphasizes that the contents of the respondent's May 4, 2017 letter did not warrant a change in the recommended penalty of reprimand. While the Commission appreciates the fact that the respondent believed that she had timely completed the training program – as she outlined in her May 4, 2017 letter – she did not in fact do so, despite having twelve months to timely complete the module. Therefore, the Commission's decision recommending the penalty of a reprimand should be adopted.

Upon a comprehensive review of the record in this matter the Commissioner concurs with the penalty recommended by the SEC – for the reasons set forth in the Commission's decision – based on the respondent's failure to timely honor an obligation placed upon school board members by

law.<sup>1</sup> Moreover, the Commissioner is now satisfied that the Commission fully considered the nature of the offense and weighed the effects of the aggravating and mitigating circumstances in this matter, including the arguments advanced in the May 4, 2017 letter submitted by the respondent in response to the April 26, 2017 Order to Show Cause.

Accordingly, respondent is hereby reprimanded as a school official found to have violated the SEA for failure to complete required training in a timely manner.

IT IS SO ORDERED.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: September 7, 2018

Date of Mailing: September 7, 2018

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<sup>1</sup> Despite the respondent's assertion to the contrary, the Commissioner's remand of this matter was limited to the appropriate penalty, if any, to be imposed upon the respondent. In the March 28, 2018 decision, the Commissioner found that the respondent violated the School Ethics Act for failing to timely complete training in accordance with *N.J.S.A.* 18A:12-33.

<sup>2</sup> 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)