

New Jersey Commissioner of Education

Final Decision

In the Matter of Carmen Torres-Izquierdo,
University Academy Charter High School,
Hudson County.

This matter involves an appeal of the School Ethics Commission’s (SEC) January 26, 2021 determination that the appellant, Carmen Torres-Izquierdo – a charter school trustee for the University Academy Charter High School – violated the School Ethics Act (Act) for failure to timely complete charter school trustee training in accordance with *N.J.S.A. 18A:12-33*, *N.J.A.C. 6A:28-4.1*, and *N.J.A.C. 6A:11-3.1(a)*. The appellant ultimately completed the training after the issuance of the SEC’s December 22, 2020 Order to Show Cause (OTSC), but prior to its January 26, 2021 decision. The SEC recommended a penalty of reprimand for the violation. Appellant appealed the SEC’s determination, challenging both the finding of a violation and the recommended penalty. Having carefully reviewed the SEC’s decision and the record in its entirety, the Commissioner finds that the SEC’s decision is supported by sufficient, credible evidence, and that the appellant failed to establish that the decision is arbitrary, capricious or contrary to law. *N.J.A.C. 6A:4-4.1(a)*. Additionally, the Commissioner finds that a penalty of reprimand is appropriate.

Pursuant to *N.J.A.C. 6A:28-4.1*, charter school trustees must annually complete a training program offered online by the New Jersey School Boards Association (NJSBA). Appellant was required to complete her Governance 4 training by June 30, 2020. Appellant alleges that she completed the training on December 2, 2020, but thereafter continued to receive notifications that she had not completed it. On December 15, 2020, appellant contacted the NJSBA regarding her technical issues

with the training, and the matter was forwarded to NJSBA's Information Technology department. Appellant argues that she subsequently attempted to re-do the training but was unable to do so because the online portal did not show any modules available for her to complete. Following the SEC's December 22, 2020 OTSC, appellant successfully completed the training on January 12, 2021.

In her appeal to the Commissioner, appellant argues that any violation of the Act was no fault of her own because there were technological problems with the web portal and it failed to register when she initially completed the course, purportedly on December 2, 2020. Additionally, appellant argues that a penalty of reprimand is unwarranted given the extenuating circumstances regarding her inability to complete the training. Citing *In the Matter of Obdulia Gonzalez, Board of Education of the City of Perth Amboy, Middlesex County*, Commissioner Decision No. 271-18A, decided September 7, 2018, appellant urges the Commissioner to weigh the effects of the aggravating and mitigating circumstances when evaluating the appropriate penalty. Appellant contends that the NJSBA was unable to determine how appellant could access the modules to re-take the required training after the system failed to record that she had completed it and argues that had the NJSBA been able to remedy the situation and enable appellant to re-do the training more quickly, it would have been completed prior to the issuance of the OTSC on December 22, 2020. Accordingly, appellant argues that any violation of the Act was beyond her control because she was unable to access the training, rendering a penalty unwarranted and unjust in this circumstance.

In opposition, the SEC argues that appellant violated the Act by failing to complete the required training by June 30, 2020 – not by failing to complete it by the issuance of the OTSC on December 22, 2020. As such, the SEC contends that appellant's arguments regarding the technological issues that she faced in December 2020 are without merit because she first attempted to complete the training six months after the completion deadline. Accordingly, the SEC argues that

appellant should be reprimanded for violating the Act by failing to complete charter school trustee training in a timely manner.

In reply, appellant argues that a letter from the Interim Executive County Superintendent indicated that if the training was not completed by December 9, 2020, the SEC would initiate independent efforts to ensure compliance. Thereafter, the December 10, 2020 “final notice” from the SEC indicated that if she did not complete the training by December 18, 2020, an OTSC would be issued and a penalty would be imposed. As such, appellant argues that when board members complete the training before the issuance of the OTSC, a penalty is not imposed, which is supported by prior case law. Appellant contends that given her multiple attempts to complete the training before the issuance of the OTSC on December 22, 2020, and the fact that she was only unable to re-do the training prior to that date was because of the NJSBA’s inability to fix technical issues with the portal, a penalty should not be issued in this matter.

Upon a comprehensive review of the record, the Commissioner finds that the SEC’s determination that the appellant is in violation of the Act is supported by sufficient credible evidence, and the appellant has not established that the SEC’s decision is arbitrary, capricious, or contrary to law. *N.J.A.C. 6A:4-4.1(a)*. Pursuant to *N.J.A.C. 6A:28-4.1*, appellant was required to complete the Governance 4 training program by June 30, 2020. There is no dispute that appellant’s first attempt to complete the training did not occur until December 2, 2020. As such, appellant failed to timely complete her charter school trustee training in accordance with *N.J.S.A. 18A:12-33*, *N.J.A.C. 6A:28-4.1*, and *N.J.A.C. 6A:11-3.1(a)*.

With respect to the appropriate penalty, the Commissioner is sympathetic to appellant’s argument that she dealt with multiple technological issues in trying to complete the required training. After her first attempt, appellant’s training would not register as completed, and this resulted in much

back-and-forth correspondence with the NJSBA to fix the glitch in the portal that prevented her from accessing the modules needed to re-do the training. However, the Commissioner notes that appellant's first attempt to complete the training did not occur until December 2, 2020, six months after the training deadline had passed. While the Commissioner acknowledges that there were mitigating factors in this case and understands how frustrating the situation must have been, appellant's communications with the NJSBA to fix the computer issues began only days before the issuance of the OTSC. Given the lengthy time that appellant remained out of compliance with *N.J.S.A. 18A:12-33*, *N.J.A.C. 6A:28-4.1*, and *N.J.A.C. 6A:11-3.1(a)*, the Commissioner finds that a penalty of reprimand – the lowest possible penalty – is warranted in this matter. Therefore, the SEC's recommended penalty will not be disturbed.

Accordingly, IT IS ORDERED that appellant is hereby reprimanded as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.¹


ANGELINA ALLEN McMILLAN, J.D.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 12, 2022

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¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.