

## New Jersey Commissioner of Education

### Final Decision

In the Matter of Francisco Martinez,  
Board of Education of the Borough of  
Fairview, Bergen County.

The record of this matter and the decision of the School Ethics Commission (SEC) have been reviewed. The SEC found that respondent violated *N.J.S.A. 18A:12-33* by failing to timely complete the required board member training. The SEC's decision was forwarded pursuant to *N.J.S.A. 18A:12-29* for the Commissioner's final determination on the recommended penalty. The SEC advises that the respondent ultimately completed training after the issuance of the August 23, 2022 Order to Show Cause but prior to the SEC's September 14, 2022 meeting; therefore, a penalty of reprimand is recommended.

Respondent filed exceptions to the recommended penalty, consisting of an email from the Fairview Business Administrator (BA), who indicated that the delay in respondent's training was caused by the BA's error in registering respondent for the wrong course and technical difficulties that required numerous contacts with technical support.

Upon review, the Commissioner concurs with the penalty recommended by the SEC for respondent's failure to timely honor an obligation placed upon board members by law. While the Commissioner is sympathetic to the technical difficulties encountered by the BA, there is no

evidence that respondent attempted to complete his training in advance of the March 31, 2022 deadline.

Accordingly, the respondent is hereby reprimanded as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.<sup>1</sup>

  
ACTING COMMISSIONER OF EDUCATION

Date of Decision: October 24, 2022

Date of Mailing: October 24, 2022

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<sup>1</sup> 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.

***Before the School Ethics Commission***  
***Docket No.: T03-22***  
***Decision for Failure to Complete Mandatory Training***  
***Requirement in a Timely Manner***

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***I/M/O Francisco Martinez,***  
**Fairview Board of Education, Bergen County**

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**I. Procedural History**

This matter arises from an Order to Show Cause (OTSC) that was issued by the School Ethics Commission (Commission) at its meeting on August 23, 2022, and also served on August 23, 2022, via electronic mail.<sup>1</sup> The OTSC directed Francisco Martinez (Respondent), a “board member” as defined in *N.J.S.A.* 18A:12-23 of the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.*, to show cause as to why the Commission should not find him in violation of the Act, for failing to complete training as required by *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1.

In the OTSC served on August 23, 2022, the Commission notified Respondent that he had twenty (20) days to respond to the OTSC, and further advised that failure to respond would be deemed an admission of the facts set forth in the OTSC. Respondent was also notified that, upon receipt of the response or upon expiration of the twenty (20) day time period for so filing, the Commission may proceed to a determination of a violation on a summary basis (i.e., without a hearing or further proceedings) in accordance with *N.J.A.C.* 6A:28-1.6(c), which so permits when material facts are not in dispute.

**II. Analysis**

The Act was enacted by the New Jersey State Legislature to ensure and preserve public confidence in members of local boards of education and local school administrators. *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1 require every board member to complete a training program prepared and offered by the New Jersey School Boards Association (NJSBA).

Respondent is a member of the Fairview Board of Education (Board), located in Bergen County. As a result of his position on the Board, and in accordance with *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1, Respondent is required to complete a mandated training program. For convenience and ease, the training is offered online so any board member may complete it at any time, from anywhere. According to NJSBA, Respondent was required to complete the Governance 4 training program by March 31, 2022.<sup>2</sup>

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<sup>1</sup> In order to conduct business during the Coronavirus (COVID-19) pandemic, the Commission implemented an electronic filing system, which remains a permissible method by which the Commission and parties can effectuate service of process. Consequently, service of process was effectuated by the Commission through electronic transmission only.

<sup>2</sup> The March 31, 2022, deadline is because on an April school board of education election.

On or about August 22, 2022, NJSBA provided the Commission with the names of those board of education members who failed to complete mandated training by March 31, 2022, and the list provided included Respondent. Prior to this time, multiple communications about mandated training were sent to Respondent from NJSBA through a variety of means, including targeted e-mail messages and postings in *School Board Notes*. More specific information detailing the outreach efforts of NJSBA to communicate with Respondent and/or the charter school lead about mandated training is set forth in the attached Certification from NJSBA. See **Exhibit A**. Notwithstanding all of these communications, Respondent did not complete mandated training.

In light of Respondent's failure to complete mandated training, an OTSC was issued by the Commission, and served on Respondent, via electronic mail, on August 23, 2022.

To date, there is no dispute that Respondent did not complete his required training by March 31, 2022, and did not complete the training prior to the issuance of the Commission's OTSC. After having been served with the OTSC, Respondent completed training on August 23, 2022, but has not submitted anything, in writing, explaining why a penalty up to and including removal should not be imposed for his failure to do so by March 31, 2022.

### **III. Decision/Penalty Recommendation**

*N.J.A.C.* 6A:28-4.2(d) provides that school board members and charter school trustees who fail to comply with their training mandate shall be considered in violation of *N.J.S.A.* 18A:12-33. Based on the record as set forth above, at its special meeting on September 14, 2022, the Commission found that Respondent violated *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1. Respondent received repeated notifications of his training requirement, and had ample opportunity to complete the mandated training in a timely fashion; nonetheless, he failed to complete training as required.

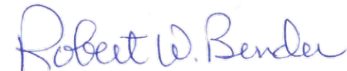
Where a violation of the Act is found by the Commission, the Commission may recommend to the Commissioner of Education that a penalty be imposed. The recommended penalty can include a reprimand, censure, suspension or removal of the school official. *N.J.A.C.* 6A:28-10.12. For the reasons set forth above, the Commission recommends that the Commissioner of Education impose a penalty of **reprimand**.

Pursuant to *N.J.S.A.* 18A:12-29(c), this decision shall be forwarded to the Commissioner of Education for review of the Commission's recommended penalty. Respondent may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's finding of a violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of a violation.

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of a violation may file, within **thirteen (13) days** from the date the Commission's decision is forwarded to the Commissioner, written exceptions regarding the recommended penalty to the Commissioner. The forwarding date shall be the mailing date to the parties, as indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, New Jersey 08625, marked

“Attention: Comments on Ethics Commission Sanction.”<sup>3</sup> A copy of any comments filed must be sent to the Commission ([school.ethics@doe.nj.gov](mailto:school.ethics@doe.nj.gov)) and all other parties.

Parties seeking to appeal the Commission’s finding of violation *must* file an appeal pursuant to the standards set forth at *N.J.A.C. 6A:4:1 et seq.* within **thirty (30) days** of the filing date of the decision from which the appeal is taken. The filing date shall be three (3) days after the date of mailing to the parties, as shown below. In such cases, the Commissioner’s review of the Commission’s recommended sanction will be deferred and incorporated into the Commissioner’s review of the finding of violation on appeal. Where a notice of appeal has been filed on or before the due date for exceptions to the Commission’s recommended sanction (thirteen (13) days from the date the decision is mailed by the Commission), exceptions need not be filed by that date, but may be incorporated into the appellant’s briefs on appeal.



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Robert W. Bender, Chairperson

Mailing Date: September 14, 2022

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<sup>3</sup> An electronic submission may also be sent to [controversiesdisputesfilings@doe.nj.gov](mailto:controversiesdisputesfilings@doe.nj.gov).