

New Jersey Commissioner of Education

Final Decision

In the Matter of Willie Hembree,
Board of Education of the City of Plainfield,
Union County.

This matter involves an appeal of the School Ethics Commission's (SEC) June 28, 2022 determination that appellant, Willie Hembree – a member of the Plainfield Board of Education – violated the School Ethics Act (Act) for failure to timely complete board member training in accordance with *N.J.S.A. 18A:12-33* and *N.J.A.C. 6A:28-4.1*. Appellant ultimately completed the training after the issuance of the SEC's April 26, 2022 Order to Show Cause (OTSC), but prior to its June 28, 2022 decision. The SEC recommended a penalty of censure 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 that appellant violated the Act 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)*. However, the Commissioner disagrees with the recommended penalty of censure and instead finds that a penalty of reprimand is appropriate.

In her appeal to the Commissioner, appellant argues that she was scheduled to complete training on February 16, 2022, but experienced technical difficulties. She re-registered for the training but continued to experience difficulties with her logon credentials, throughout which she was in communication with the New Jersey School Boards Association (NJSBA), which

provides the training. According to petitioner, her repeated communication with the NJSBA contradicts the SEC's finding that she made no effort to complete her mandatory training in a timely manner. Furthermore, appellant contends that, due to the technical failures by the NJSBA, the training was simply not available to her in a timely manner.

In opposition, the SEC argues that its decision was not arbitrary, capricious, or unreasonable. The SEC notes that it is undisputed that appellant did not complete the required training by December 31, 2021. Accordingly, the SEC argues that appellant should be censured for violating the Act by failing to complete board member training in a timely manner.

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 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 2 training program by December 31, 2021. While the Commissioner is sympathetic to appellant's technological issues, by appellant's own admission, she did not attempt to complete the training until February 16, 2022, six weeks after the December 31, 2021 deadline. As such, appellant failed to timely complete her board member training in accordance with *N.J.S.A. 18A:12-33* and *N.J.A.C. 6A:28-4.1*.

With respect to the appropriate penalty, the Commissioner notes that in previous matters, when a respondent completed the requisite training after the issuance of the Order to Show Cause – but prior to the SEC's meeting date – the penalty has been a reprimand. *See, In the Matter of Annette Beasley, Irvington Board of Education, Essex County, Commissioner Decision No. 223-21SEC, decided October 13, 2021; In the Matter of Marcos Garciga, Cliffside*

Park Board of Education, Bergen County, Commissioner Decision No. 224-21SEC, decided October 13, 2021; *In the Matter of Gary Yedman, Seaside Park Board of Education, Ocean County*, Commissioner Decision No. 230-21SEC, decided October 13, 2021. As the instant case arises from the same circumstances, the Commissioner finds that a reprimand is the appropriate penalty for the respondent's failure to timely complete the requisite training.¹ Accordingly, the respondent is hereby reprimanded as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.²


ANGELINA ALLEN McMILLAN, Ed. S.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 23, 2023

Date of Mailing: January 25, 2023

¹ The SEC has previously recommended a penalty of a censure when a board member completed the training after the issuance of the Order to Show Cause but prior to the SEC's next meeting; however, the Commissioner rejected the penalty recommendation in that case and advised that a reprimand is the appropriate penalty under those circumstances. *In the Matter of Robyn Schneider, The Ethical Community Charter School, Hudson County*, Commissioner Decision No. 140-16SEC, decided April 11, 2016.

² 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.: T32-21
Amended Decision for Failure to Complete Mandatory Training
Requirement in a Timely Manner

I/M/O Willie Hembree,
Plainfield Board of Education, Union County

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 April 26, 2022, and also served on April 26, 2022, via electronic mail.¹ The OTSC directed Willie Hembree (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 her 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 April 26, 2022, the Commission notified Respondent that she 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 Plainfield Board of Education (Board), located in Union County. As a result of her 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 on an annual basis. For convenience and ease, the training is offered online so any board member may complete it at any time, from anywhere. Respondent was required to complete the Governance 2 training program by December 31, 2021.

On or about April 15, 2022, NJSBA provided the Commission with the names of those board of education members who failed to complete mandated training by December 31, 2021, and

¹ As a result of the ongoing Coronavirus (COVID-19) pandemic, and the implementation of electronic filing, service of process was effectuated by the Commission through electronic transmission only.

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. 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 April 26, 2022.

At its meeting on May 24, 2022, and because the Commission did not have information from NJSBA or Respondent indicating that Respondent had completed mandated training prior thereto, the Commission adopted a decision recommending that the Commissioner of Education impose a penalty of removal, with such removal to become effective immediately upon issuance of the Commissioner of Education's decision. The Commission's decision further stated that if Respondent completed training before the Commissioner of Education adopted a final decision (which would have been forty-five (45) days after the mailing date of its May 24, 2022, decision), then the Commission recommended that the Commissioner of Education, in lieu of removal, impose a thirty (30) day suspension.

On May 25, 2022, which was after the Commission adopted the aforementioned decision, the Commission received information from NJSBA that Respondent successfully completed mandated training on May 19, 2022.

Notwithstanding Respondent's completion of mandated training on May 19, 2022, there is no dispute that Respondent did not complete her required training by December 31, 2021, and did not complete the training prior to the issuance of the Commission's OTSC.

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 meeting on June 28, 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 her training requirement, and had ample opportunity to complete the mandated training in a timely fashion; nonetheless, she 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, and because training is regularly completed annually and can be completed from any computer or device with an internet connection, the Commission recommends that the Commissioner of Education impose a penalty of **censure**.

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.”² A copy of any comments filed must be sent to the Commission (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.

Robert W. Bender, Chairperson

Mailing Date: June 28, 2022

² An electronic submission may also be sent to controversiesdisputesfilings@doe.nj.gov.