

***Before the School Ethics Commission
Docket No.: D01-19
Decision for Failure to File Personal/Relative and
Financial Disclosure Statements***

***I/M/O Andrew Toliver,
Camden City Public Schools Board of Education, Camden County***

I. Procedural History

This matter arises from an Order to Show Cause (OTSC) issued by the School Ethics Commission (Commission) at its meeting on July 23, 2019, and mailed on July 24, 2019, through regular and electronic mail, directing Respondent, a “school official” 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 file Personal/Relative and Financial Disclosure Statements (Disclosure Statements) as required by *N.J.S.A. 18A:12-25*, *N.J.S.A. 18A:12-26*, and *N.J.A.C. 6A:28-3.1*.

The OTSC issued by the Commission provided notification to Respondent that he had twenty (20) days to respond to the OTSC, and that failure to respond would be deemed an admission of the facts set forth in the OTSC. Respondent was further 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. The Commission discussed this matter at its special meeting on August 30, 2019.

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. Annually, on or before April 30th of each year, all school officials, as defined in *N.J.S.A. 18A:12-23*, must file Disclosure Statements with their local board secretaries or charter school designees. *N.J.A.C. 6A:28-3.1(a)*. In addition, all newly elected board members or board members appointed to fill vacancies, newly appointed members of a board of trustees of a charter school, and administrators appointed to fill a vacancy must file their Disclosure Statements within thirty (30) days of appointment or taking office. *N.J.A.C. 6A:28-3.1(c)*, *N.J.A.C. 6A:28-3.1(d)*, *N.J.A.C. 6A:28-3.1(e)*, and *N.J.A.C. 6A:28-3.1(f)*.

Although Respondent was appointed to the Board on or about September 27, 2018, he was not added to the Camden City School District’s electronic list of school officials until February 1, 2019. As a newly appointed Board member, Respondent was required to file Disclosure Statements within thirty (30) days of his appointment, which was on September 27, 2018. Respondent failed to file his Disclosure Statements within the statutorily required timeframe.

By correspondence dated July 1, 2019, from the Camden County Office of Education, Respondent was reminded that his Disclosure Statements had not yet been filed with the Commission. This correspondence further advised Respondent that if he failed to file his Disclosure Statements by July 10, 2019, the Commission had the authority to issue an OTSC, find him in violation of the Act, and recommend a penalty up to and including removal for his non-compliance.

When the correspondence from the Camden County Office of Education failed to cause Respondent to file his Disclosure Statements, the Commission sent him another letter dated July 11, 2019, and informed Respondent that failure to file his Disclosure Statements by July 19, 2019, would result in the Commission voting to issue an OTSC. The Commission further advised that, if an OTSC was issued, Respondent would be assessed a penalty, up to and including removal.

When Respondent failed to file his Disclosure Statements as required by *N.J.S.A.* 18A:12-25, *N.J.S.A.* 18A:12-26, and *N.J.A.C.* 6A:28-3.1 by July 19, 2019, and despite receiving multiple reminders and opportunities to file his Disclosure Statements, an OTSC was issued by the Commission at its meeting on July 23, 2019. After having been served with the OTSC, Respondent still failed to file his completed Disclosure Statements, or to otherwise respond to the OTSC.

III. Decision/Penalty Recommendation

Based on the record as set forth above, at its special meeting on August 30, 2019, the Commission found that Respondent violated *N.J.S.A.* 18A:12-25, *N.J.S.A.* 18A:12-26, and *N.J.A.C.* 6A:28-3.1.

Where a violation of the Act is found by the Commission, it may recommend to the Commissioner of Education that a penalty be imposed on the school official. 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 **removal**, with such removal to become effective immediately upon adoption by the Commissioner of Education. However, if Respondent files his Disclosure Statements before the Commissioner of Education adopts a final decision (which will be forty-five (45) days after the mailing date of the within decision), then the Commission recommends that the Commissioner of Education, in lieu of removal, impose a **thirty (30) day suspension**, with such suspension to become effective immediately upon adoption by the Commissioner of Education.

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 penalty 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." A copy of any comments filed must be sent to the Commission 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 brief on appeal.

Robert W. Bender, Chairperson

Mailing Date: August 30, 2019

**Resolution Adopting Decision for Failure to File Personal/Relative and
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Whereas, Respondent is a “school official,” as defined in *N.J.S.A.* 18A:12-23 of the School Ethics Act (Act), at the Camden City Public Schools; and

Whereas, as a newly appointed school official, Respondent was required to file his Personal/Relative and Financial Disclosure Statements (Disclosure Statements) within thirty (30) days of his appointment, which was on or about September 27, 2018; and

Whereas, Respondent failed to file his Disclosure Statements within the statutorily required timeframe; and

Whereas, at its meeting on July 23, 2019, the School Ethics Commission (Commission) issued an Order to Show Cause (OTSC) directing Respondent to show cause why he failed to file his Disclosure Statements as required by *N.J.S.A.* 18A:12-25, *N.J.S.A.* 18A:12-26, and *N.J.A.C.* 6A:28-3.1; and

Whereas, Respondent failed to file his Disclosure Statements following issuance of the OTSC; and

Whereas, Respondent failed to otherwise file a response to the OTSC; and

Whereas, at its special meeting on August 30, 2019, the Commission found that Respondent violated *N.J.S.A.* 18A:12-25, *N.J.S.A.* 18A:12-26, and *N.J.A.C.* 6A:28-3.1 by failing to file his Disclosure Statements; and

Whereas, at its special meeting on August 30, 2019, the Commission recommended that the Commissioner of Education impose a penalty of removal, with such removal to become effective immediately upon adoption by the Commissioner of Education. However, if Respondent files his Disclosure Statements before the Commissioner of Education adopts a final decision (which will be forty-five (45) days after the mailing date of the within decision), then the Commission recommends that the Commissioner of Education, in lieu of removal, impose a thirty (30) day suspension, with such suspension to become effective immediately upon adoption by the Commissioner of Education; and

Whereas, at its special meeting on August 30, 2019, the Commission agreed that the within decision accurately memorializes its findings and recommendations; and

Now Therefore Be It Resolved, that the Commission hereby adopts the within decision and directs its staff to notify all parties to this action of the decision.

Robert W. Bender, Chairperson

I hereby certify that the within Resolution was duly adopted by the School Ethics Commission at its special meeting on August 30, 2019.

Kathryn A. Whalen, Director