

SCHOOL ETHICS COMMISSION	:	BEFORE THE SCHOOL
	:	ETHICS COMMISSION
V.	:	
	:	Docket No.: D03-08
KENNETH WALLER	:	
IRVINGTON	:	DECISION FOR FAILURE TO
BOARD OF EDUCATION	:	FILE DISCLOSURE STATEMENTS
ESSEX COUNTY	:	
	:	

PROCEDURAL HISTORY

This matter arises from an Order to Show Cause (OTSC) issued on October 10, 2008, through regular and certified mail return receipt requested, directing Kenneth Waller, a “school official” under N.J.S.A. 18A:12-23 of the School Ethics Act, to show cause as to why the Commission should not find the school official in violation of the School Ethics Act, (Act) N.J.S.A. 18A:12-21 et seq., for failing to file personal/relative and financial disclosure statements pursuant to N.J.S.A. 18A:12-25 and 26. In its letter of October 10, 2008 enclosing the OTSC, the Commission provided notification that this school official had 20 days to respond to the OTSC, that the Commission would discuss this matter at its December 16, 2008 meeting, that the school official had the right to attend the meeting, and that the school official could be found in violation of the Act and receive a penalty up to removal. The school official filed an answer on October 16, 2008 and he filed the disclosure statements on October 23, 2008, but did not appear at the Commission’s meeting of December 16, 2008.

ANALYSIS

N.J.S.A. 18A:12-25 and 26 of the School Ethics Act require each school official to file personal/relative and financial disclosure statements with the School Ethics Commission. The School Ethics Commission was advised by the Executive County Superintendent that this school official did not file the disclosure statements by April 30, 2008 as required by the Act. The Commission notes that the school official filed the disclosure statements on October 23, 2008 and does not dispute in his answer that they were untimely in accordance with the Act.

DECISION/PENALTY RECOMMENDATION

At its meeting on December 16, 2008, the Commission found probable cause to credit the allegation that the school official violated N.J.S.A. 18A:12-25 and 26. The Commission also found that the school official does not dispute in his answer that the disclosure statements were not timely filed and, therefore the Commission found that the school official’s failure to timely file the disclosure statements was a clear violation of N.J.S.A. 18A:12-25 and 26. The Commission recommended that the Commissioner of Education impose a sanction 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 School Ethics Commission’s recommended sanction. Parties may

either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's finding of violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of violation.

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of violation may file, within **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, indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, NJ 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the School Ethics 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 within **30 days** of the filing date of the decision from which the appeal is taken. The filing date shall be three 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 (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.

Paul C. Garbarini, Chairperson

Mailing Date: December 17, 2008

Resolution Adopting Decision – D03-08

Whereas, the School Ethics Commission has considered its Order to Show Cause in this matter; and

Whereas, at its meeting of December 16, 2008, the Commission found that Kenneth Waller violated N.J.S.A. 18A:12-25 and 26; and

Whereas, at its meeting of December 16, 2008, the Commission recommended that the Commissioner of Education impose a sanction of reprimand; and

Whereas, the Commission reviewed this draft decision as prepared by its staff;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision referenced as its decision in this matter and directs its staff to notify all parties to this action of the Commission's decision herein.

Paul C. Garbarini, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on December 16, 2008.

Joanne Boyle
Executive Director