

***Before the School Ethics Commission
Docket No.: T03-24
Decision for Failure to Complete Mandatory Training
Requirement in a Timely Manner***

***In the Matter of Carol Bitzberger,
Bass River Board of Education, Burlington County***

I. Procedural History

This matter arises from an Order to Show Cause (OTSC) that was issued by the School Ethics Commission (Commission) in connection with the above-captioned matter at its special meeting on June 17, 2024, directing Carol Bitzberger (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 Respondent 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 that was served on June 17, 2024, the Commission notified Respondent that she had twenty (20) days to respond to the OTSC. Respondent was further advised that failure to respond would be deemed an admission of the facts set forth in the OTSC, and the Commission may take action on a summary basis, in accordance with *N.J.A.C.* 6A:28-1.6(c).

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 Bass River Board of Education, located in Burlington County. As a result of her position as a board of education member, 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. According to NJSBA, Respondent was required to complete the Governance 3 training program by December 31, 2023.

On or about May 7, 2024, the NJSBA provided the Commission with the names of those board of education members who failed to complete mandated training by December 31, 2023, and the list provided included Respondent. Prior to that time, multiple communications about mandated training were sent to Respondent from the NJSBA through a variety of means, including targeted e-mail messages on January 4, 2023, as well as postings in *School Board Notes* on 19 occasions. Notwithstanding all of these communications, Respondent did not complete mandated training.

As a final warning, the Commission’s staff sent e-mails to Respondent dated May 6, 2024, and June 5, 2024, advising Respondent that the Commission required completion of the training by

June 13, 2024, to avoid the issuance of an OTSC for non-compliance. Again, notwithstanding this correspondence, Respondent did not complete the required training. As a result, an OTSC was issued by the Commission at its special meeting on June 17, 2024.

To date, there is no dispute that Respondent did not complete her required training by December 31, 2023, and did not complete the training prior to the Commission's final deadline of June 13, 2024, and therefore, the Commission issued an OTSC at its meeting on June 17, 2024. After having been served with the OTSC, Respondent failed to respond to the Commission's OTSC as to why she did not complete training by December 31, 2023, and also failed to complete training as required by *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1.

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 July 23, 2024, the Commission found that Respondent violated *N.J.S.A.* 18A:12-33. Respondent received repeated notifications of her training requirement, and had ample opportunity to complete the mandated training in a timely fashion; nonetheless, Respondent failed to complete training as required.

Where a violation of the Act is found by the Commission, it 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:28-9.11. Specifically, unless good cause is shown or the school official previously has been the subject of an OTSC, "the Commission shall recommend that a board member or trustee who completes training after the Commission issues its decision, but before the Commissioner issues a final decision, receives a suspension for 30 days." *N.J.A.C.* 6A:28-4.3(c). However, "the Commission will recommend this penalty only if the board member or the trustee provides to the [NJSBA] and the Commission written notice before the Commissioner issues a final decision." *Ibid.* If the board member or trustee fails to complete training as of the date the Commissioner issues its final decision, the Commission will recommend removal of the board member or trustee from his or her position. *N.J.A.C.* 6A:28-4.3(d).

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 issuance of the Commissioner of Education's decision. However, if Respondent completes training before the Commissioner of Education adopts a final decision (which will be within forty-five (45) days after the mailing date of this 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 issuance of the Commissioner of Education's decision, provided the board member or trustee provides written notice of successful completion of the training requirement.

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.” as well as to (ControversiesDisputesFilings@doe.nj.gov). A copy must also 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: July 23, 2024

***Resolution Adopting Decision for Failure to Complete Mandatory
Training Requirement in a Timely Manner
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Whereas, Carol Bitzberger (Respondent) is a “board member” as defined in *N.J.S.A.* 18A:12-23 of the School Ethics Act (Act); and

Whereas, as a board member, Respondent is required to complete a training program prepared and offered by the New Jersey School Boards Association (NJSBA) on an annual basis; and

Whereas, Respondent failed to complete her training program by December 31, 2023; and

Whereas, at its special meeting on June 17, 2024, the School Ethics Commission (Commission) issued an Order to Show Cause (OTSC) directing Respondent to show cause as to why she failed to complete her mandatory training by December 31, 2023, as required by *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1; and

Whereas, after having been served with the OTSC, Respondent failed to respond to the Commission’s OTSC as to why she did not complete training by December 31, 2023, and also failed to complete training as required by *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1; and

Whereas, at its meeting on July 23, 2024, the Commission found that Respondent violated *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1 by failing to complete the training requirement she was obligated to complete; and

Whereas, at its meeting on July 23, 2024, the Commission recommended that the Commissioner of Education impose a penalty of removal, with such removal to become effective immediately upon issuance of a final decision by the Commissioner of Education. However, if Respondent completes training before the Commissioner of Education adopts a final decision (which will be within forty-five (45) days after the mailing date of this 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 issuance of a final decision by the Commissioner of Education, provided the board member or trustee provides written notice of the successful completion of the training requirement; and

Whereas, at its meeting on July 23, 2024, 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 certify that the within Resolution was duly adopted by the School Ethics Commission at its public meeting on July 23, 2024.

Brigid C. Martens, Director
School Ethics Commission