

- On October 5, 2014, the Respondent was registered to take Governance II training and an email with the link was sent to her registered email address.
- On March 23, 2015 and May 12, 2015, prior to the end of the 2014 training cycle, the NJSBA communicated with charter school trustees by email regarding the mandated training requirements for the 2014 training period.
- On July 1, 2015, after the 2014 training cycle closed, the NJSBA provided the School Ethics Commission with a report of charter trustees who had failed to complete the required training for the 2014 training period, which included Respondent.
- On July 8, 2015, the NJSBA emailed Respondent advising her that she had yet to complete the Governance II training program required during the 2014 training period, and included a link to the online training module in the email.
- On July 22, 2015, the NJSBA sent an additional email to all charter school trustees regarding the mandated training requirement, included a link to the online training module in the email.
- On October 1, 2015, the NJSBA emailed Respondent advising her that she had yet to complete the Governance II training program required during the 2014 training period, and included a link to the online training module in the email.
- On November 18, 2015, the NJSBA notified the School Business Administrator (SBA) for the Newark Prep Charter School advising the SBA that Respondent had failed to complete the required training.
- On November 23, 2015, the NJSBA communicated through email with the Newark Prep Charter School and as a result sent an email to Tinia Berger with the link and instructions for completing to the Respondent with the Governance II.

The October 1, 2015 NJSBA notice was marked “***Urgent: Action Needed***” in an email to all school board members and charter school trustees who had not completed the mandatory training. In the October 2015 email, the NJSBA advised school board members and charter school trustees that failure to complete the mandated training might result in disciplinary action ordered by the Commission, up to and including removal from their respective board.

Further, the NJSBA notified the Commission by email on November 17, 2015, that it expressly notified Respondent by email that Respondent was non-compliant with the training requirement and urged Respondent to complete the mandated training no later than November 25, 2015. This notice also explained that failure to complete the training would result in the issuance of an Order to Show Cause requiring Respondent to explain why Respondent failed to complete the required training and potentially compelling Respondent to appear before the Commission. In addition, the November 2015 notice also advised Respondent that the penalty for failing to comply included removal from the charter board of trustees.

In addition to the communication efforts undertaken by the NJSBA, the School Ethics Commission, the Department of Education County Offices and the Department of Education’s Office

of Charter Schools also communicated with the Respondent, regarding the mandated training requirement.

Specifically, in September 2015, the Commission reported to Respondent's County Office of Education (County) that the NJSBA identified that Respondent failed to complete the 2014 training program within the required training period. Working in conjunction with the Commission, the County Office emailed the Chief School Administrator of Respondent's school that Respondent remained delinquent in completing the training requirement. This notice also provided the opportunity to inform the Commission of any errors in its data. None was received.

Additionally, on October 29, 2015, the New Jersey Department of Education's Office of Charter Schools emailed Respondent directly to notify her that she was non-compliant with the training requirements, and also advised Respondent that the Commission requires the training to be completed to avoid the issuance of an Order to Show Cause against Respondent for non-compliance, which carries the penalty of reprimand, censure, suspension or removal.

As a final notice of non-compliance, on November 30, 2015, the Commission directly emailed Respondent, advising that the Commission requires completion of the training to avoid the issuance of an Order to Show Cause against Respondent for non-compliance, which carries the penalty of reprimand, censure, suspension or removal from office.

The December 15, 2015 Order to Show Cause sent to Respondent via regular and certified mail, specifically stated, pursuant to N.J.A.C. 6A:28-1.6, that Respondent must show cause under oath and in writing before the Commission, within 20 days of receipt of the Order, reasons why the board member/trustee should not be found in violation of N.J.S.A. 18A:12-33. The Respondent did not reply to the Commission's Order and the NJSBA's Manager of Training and Professional Development certified that as of January 26, 2016, Respondent had failed to complete the required training for the 2014 training cycle.

ANALYSIS

The School Ethics Act, N.J.S.A. 18A:12-21 *et seq.*, was enacted by the New Jersey State Legislature to ensure and preserve public confidence in school board members and school administrators; N.J.S.A. 18A:12-33 requires each board member and charter school trustee to complete training, as specified above.

There is no dispute that Respondent did not complete the required training program prior to the issuance of the Commission's show cause order. N.J.A.C. 6A:28-4.2(d) provides that board members and trustees failing to comply with the training mandate shall be considered in violation of N.J.S.A. 18A:12-33. The Respondent failed to timely comply with the training mandate, and is, therefore, in violation of N.J.S.A. 18A:12-33.

DECISION

N.J.A.C. 6A:28-4.2(d) provides that board members and trustees failing to comply with the training mandate shall be considered in violation of N.J.S.A. 18A:12-33. Tinia Berger failed to comply with N.J.S.A. 18A:12-33 and the Commission finds her in violation of N.J.S.A. 18A:12-33.

Ms. Berger received repeated notifications of the long-standing training requirement and has had ample opportunities to attend in-person training or to complete on-line training. Ms. Berger did not provide any response to the Commission's Order. The Commission believes that, based on her failure to complete her training requirement for the 2014 training cycle and her failure to respond to the Order, the appropriate penalty is **removal**. This penalty underscores to this Respondent, and all those similarly situated board members and charter school trustees, that the Commission will impose a penalty on those officials for their failure to timely comply with the statutory obligation to complete the training requirement, and the Commission will not continue to allocate additional administrative and adjudicative time tracking attendance at a training program well after the timeline established in N.J.S.A. 18A:12-33. Therefore, the Commission recommends to the Commissioner of Education that the Respondent be **removed** as a member of the Newark Prep Charter School Board of Trustees for a period of three years or the remaining term of Ms. Berger's office, whichever is longer.

At its meeting on January 26, 2016, the Commission voted to find Respondent in violation of N.J.S.A. 18A:12-33 and to recommend a penalty, as set forth below.

PENALTY

If a violation of the School Ethics Act is found by the Commission, it may recommend to the Commissioner the reprimand, censure, suspension or removal of the school official. N.J.A.C. 6A:28-10.12. Upon review of the record in this matter the Commission recommends to the Commissioner of Education that the Respondent be **removed** from the above-named Board as a result of Respondent's failure to complete the Governance II training program within the required time period for the 2014 training period, **effective immediately after the issuance of the Commissioner of Education's Decision affirming the penalty for a period of one three-year term or the remaining term of Ms. Berger's office, whichever is longer.**

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. The school official 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.

Robert W. Bender, Chairman
School Ethics Commission

Mailing Date: February 24, 2016

I hereby certify that this decision was duly adopted by the School Ethics Commission at its public meeting on February 23, 2016.

Joanne M. Restivo, Acting Executive Director

