

307-01 SEC
AGENCY DKT. NO. 254-7/01

**NOTE: THIS DECISION WAS VACATED BASED ON NEW INFORMATION
RECEIVED BY DECISION #483-01 (APPENDED BELOW)**

IN THE MATTER OF EVELYN WILLIAMS, :
STATE-OPERATED SCHOOL DISTRICT : COMMISSIONER OF EDUCATION
OF THE CITY OF NEWARK, ESSEX COUNTY. : DECISION

Whereas, the School Ethics Commission has acted pursuant to the authority granted to it by *N.J.S.A.* 18A:12-21 *et seq.* to recommend removal of the above-named Board member from office for failure to attend the Board member training sessions required by *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-1.6; and

Whereas, the School Ethics Commission sent ample notice to the above-named Board member of her failure to attend such training sessions; and

Whereas, pursuant to *N.J.A.C.* 6A:28-1.6(e), on April 9, 2001 the Commission issued an Order to Show Cause why a penalty should not be imposed for such failure; and

Whereas, the above-named Board member replied that she could not attend due to periodontal surgery and painful post-surgical recovery, but that she planned to attend a January 12, 2002 session; and

Whereas, her doctor's note indicates that her surgery and follow-up appointments were scheduled between October 2000 and December 2000; and

Whereas, the Commission voted on June 26, 2001, to recommend suspension of the above-named Board member until she attends a training session, and to remove her from the Board if she fails to attend training sessions in violation of State statute, memorializing such

decision through a resolution forwarded to the Commissioner, pursuant to *N.J.S.A.* 18A:12-29; and

Whereas, on July 12, 2001, the above-named Board member was afforded an opportunity to submit to the Commissioner a response to the Commission's resolution recommending suspension, pending attendance at training and removal, if the Board member fails to so attend by October 2001; and

Whereas, no response was forthcoming; and

Whereas, the Commissioner of Education has carefully considered the record of this matter and the decision of the School Ethics Commission recommending removal of the above-named Board member if she fails to attend a training session by October, 2001; now therefore

IT IS ORDERED that the above-named Board member is suspended from office as of the filing date of this decision, and shall remain suspended pending completion of the requisite training, and, in the event the Board member fails to complete the required training by October 23, 2001, the above-named Board member is hereby summarily removed from office effective October 24, 2001.*

COMMISSIONER OF EDUCATION

Date of Decision: September 6, 2001

Date of Mailing: September 17, 2001

*This decision, as the Commissioner's final determination regarding penalty in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.

483-01 SEC (307-01 SEC)

NOTE: THIS DECISION VACATES #307-01 ABOVE

December 12, 2001

Michael D. Bross, Esq.
Bross Cummings & Pereira, L.L.C.
17 Academy Street
Suite 1200
Newark, New Jersey 07102

Dear Mr. Bross:

I have reviewed the papers submitted in conjunction with your request that I reconsider my September 6, 2001 decision in the matter entitled *In the Matter of Evelyn Williams, State-Operated School District of the City of Newark, Essex County*, Agency Docket No. 254-7/01, based on subsequent events that prevented Ms. Williams from completing required board member training by October 23, 2001 as directed by that decision, thus triggering her immediate removal from the Board of Education. The School Ethics Commission had, as communicated to Ms. Williams and the Bureau of Controversies and Disputes by letter dated November 29, 2001, determined at its meeting on November 27, 2001 not to alter the penalty previously imposed, finding such action unwarranted under the circumstances.

Ms. Williams explains, without apparent challenge or contradiction, that arrangements had been made through the district for her to attend all-day training on October 23 in Atlantic City and that she arrived at her hotel the night before in order to do so as planned; however, she was summoned by hotel staff on the morning of October 23 as she was leaving for training in order to resolve the hotel's allegation that her bill was unpaid due to a problem with the district purchase order. The resulting delay, of which she notified the training center when it became apparent that she would be late, caused her to miss most of the morning training session, so that the New Jersey School Boards Association was unable to issue its customary verification that she had *completed* the required training. Thus, Ms. Williams contends that, although she did not, in fact, complete the full day of training, she was prevented from doing so through no fault of her own, and in spite of every effort on her part to comply with my September 6 order.

I have considered the School Ethics Commission's recommendation that the penalty of removal as of October 24, 2001 should stand against Ms. Williams notwithstanding the events reported in her application for reconsideration. However, under the very specific and highly unusual circumstances herein, I cannot agree that removal of Ms. Williams is warranted

for failure to complete training within the time frame established by my earlier decision, and I, therefore, vacate the order removing Ms. Williams from the Board as of October 24, 2001. Instead, I direct that Ms. Williams' suspension be continued from that date until she attends the January 12, 2002 training session, provided, however, that she shall be summarily removed from the Board should she fail to complete her training at that time.

Sincerely,

Vito A. Gagliardi, Sr.
Commissioner

c: Board Secretary
County Superintendent
School Ethics Commission