

387-02SEC

IN THE MATTER OF HUGH GALLAGHER, :
KEANSBURG BOARD OF EDUCATION, :
MONMOUTH COUNTY. :
_____ :

COMMISSIONER OF EDUCATION

DECISION

SYNOPSIS

The School Ethics Commission determined that respondent former Board member violated *N.J.S.A.* 18A:12-24(b) of the School Ethics Act for soliciting a donation for a political action committee from an Aramark employee contracted to supply custodial, maintenance and grounds work for the District. The Commission also found that respondent violated *N.J.S.A.* 18A:12-24(e) of the Act for allegedly making a veiled threat to Aramark’s contract if the donation was not given. The Commission recommended that respondent be censured.

Upon review of the record, the Commissioner, whose decision was restricted solely to a review of the Commission’s recommended penalty, concurred with the Commission’s recommendation and, thus, ordered respondent former Board member censured as a school official found to have violated the School Ethics Act.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

November 6, 2002

IN THE MATTER OF HUGH GALLAGHER, :
KEANSBURG BOARD OF EDUCATION, : COMMISSIONER OF EDUCATION
MONMOUTH COUNTY. : DECISION
_____ :

The record of this matter and the decision of the School Ethics Commission (“Commission”), including the recommended penalty of censure, have been reviewed.¹

This matter comes before the Commissioner to impose a sanction upon Respondent Hugh Gallagher, former member of the Keansburg Board of Education, based upon findings of fact and conclusions of law by the Commission that, while still a Board member, Mr. Gallagher violated *N.J.S.A.* 18A:12-24(b) of the School Ethics Act when he solicited a Board vendor for a contribution to the political action committee to support his favored candidate’s campaign for borough council, thereby attempting to use his position to secure unwarranted privileges for himself and for others in violation of the statute. The Commission further found that Mr. Gallagher violated *N.J.S.A.* 18A:12-24(e) of the School Ethics Act when he indicated by his actions, in concert with other Board members, that his vote with respect to Aramark’s contract could be affected by the vendor’s response to the solicitation.

Upon issuance of the decision of the Commission, respondent was provided 13 days from the mailing of the decision to file written comments on the recommended penalty for the Commissioner’s consideration. No comments, however, were submitted by respondent, or on his behalf.

¹ Although this matter was decided in a timely fashion by the Commission on July 22, 2002, the decision and record were not received by the Commissioner until October 25, 2002.

Initially, it must be emphasized that, pursuant to *N.J.S.A.* 18A:12-29(c) and *N.J.A.C.* 6A:3-9.1, the determination of the Commission as to violation of the School Ethics Act is **not reviewable by the Commissioner herein**. Only the Commission may determine whether a violation of the School Ethics Act occurred. The Commissioner's jurisdiction is limited to reviewing the sanction to be imposed based upon a finding of a violation by the Commission. Therefore, this decision is restricted solely to a review of the Commission's recommended penalty.

Upon a thorough review of the record, the Commissioner determines to accept the Commission's recommendation that censure is the appropriate penalty in this matter for the reasons expressed in the Commission's decision. In so ruling, the Commissioner is satisfied that, in recommending a penalty for the violations found, the Commission fully considered the nature of the offenses and weighed the effects of aggravating and mitigating circumstances. Therefore, the Commission's recommended penalty in this matter will not be disturbed.

Accordingly, IT IS hereby ORDERED that Hugh Gallagher be censured as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: November 6, 2002

Date of Mailing: November 7, 2002

² This decision, as the Commissioner's final determination regarding penalty in this 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.