

676-03
AGENCY DKT. NO. 404-11/03

IN THE MATTER OF LYNEL DUNKINS, :
GATEWAY CHARTER SCHOOL, HUDSON : COMMISSIONER OF EDUCATION
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 school official for failure to file a personal/relative disclosure statement, pursuant to *N.J.S.A.* 18A:12-25 and/or an annual financial disclosure statement required by *N.J.S.A.* 18A:12-26;

Whereas, the deadline to file these disclosure statements was April 30, 2003 for school officials in office since January 30, 2003, or 30 days from swearing in or start of service for newly elected or appointed board members and administrators; and

Whereas, the School Ethics Commission was advised by the County Superintendent that this school official did not file a disclosure statement with his school district and the County Superintendent's office, as required by the Act; and

Whereas, the Commission sent a reminder letter to the above-named school official on September 5, 2003, indicating that if the completed statement was not filed by September 15, 2003, the Commission would issue an Order to Show Cause that could result in disciplinary action; and

Whereas, pursuant to *N.J.A.C.* 6A:28-1.5(j), the Commission issued an Order on September 24, 2003 directing this school official to Show Cause why the Commission should not find him in violation of the Act for failing to file the necessary statement(s); and

Whereas, the above-named school official failed to reply to the Order to Show Cause; and

Whereas, the Commission found that failure to file a disclosure statement within the designated timeline constitutes a clear violation of *N.J.S.A.* 18A:12-25 and 26; and

Whereas, the above-referenced school official did not provide any reason why he failed to comply with the requirement under *N.J.S.A.* 18A:12-25 and 26; and

Whereas, the Commission voted on October 28, 2003 to recommend suspension of the above-named school official until he files the necessary disclosure statement, and his automatic removal from the board if he fails to file within 30 days, memorializing such decision through a resolution forwarded to the Commissioner, pursuant to *N.J.S.A.* 18A:12-29; and

Whereas, by letter dated November 7, 2003 from the School Ethics Commission, the above-named school official was afforded an opportunity to submit to the Commissioner a response to said resolution recommending removal; and

Whereas, no comments were received from the above-named school official; and

Whereas, the Commissioner recognizes that, were the Commission's recommendation to be adopted without modification, school officials filing the requisite disclosure statement prior to the decision of the Commissioner, and hence, prior to imposition of the recommended suspension, would receive no penalty notwithstanding that the School Ethics Act was violated and the Commission has recommended reprimands for school officials who failed to file until after issuance of the Order to Show Cause; now therefore

IT IS ORDERED that, as recommended by the School Ethics Commission, the above-named school official be suspended until he files the necessary disclosure statement, and automatically removed from the Board if he fails to file within 30 days. IT IS additionally

ORDERED that even if the above-named school official shall have filed the necessary statement prior to the filing date of this decision, he shall nevertheless be reprimanded for his failure to abide by the requirements of the School Ethics Act despite many opportunities for compliance, thereby causing administrative and adjudicative time to be wasted by local, county and state education officials.*

COMMISSIONER OF EDUCATION

Date of Decision: December 22, 2003

Date of Mailing: December 29, 2003

* 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.* Pursuant to *N.J.A.C. 6A:4-1.4(a)*, Commissioner decisions are deemed filed three days after the date of mailing to the parties.