

497-04SEC

AGENCY DKT. NO. 409-11/04

(School Ethics Commission Decision: <http://www.state.nj.us/njded/legal/ethics/training/t3404cssuspend.pdf>)

IN THE MATTER OF YESSENIA RIOS, :

MARION P. THOMAS CHARTER SCHOOL, : COMMISSIONER OF EDUCATION

BOARD OF TRUSTEES, ESSEX COUNTY. : DECISION

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Whereas, the School Ethics Commission (Commission) has acted pursuant to the authority granted to it by *N.J.S.A.* 18A:12-21 *et seq.* to recommend a penalty for the above-named Board member for failure to attend the board member training sessions required by *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1; and

Whereas, *N.J.S.A.* 18A:12-33 requires new board members to attend training within one year of election or appointment to the board to gain skills and knowledge necessary to serve as a school board member; and

Whereas, the above-named Board member was appointed to the Marion P. Thomas Charter School Board of Trustees in April 2003; and

Whereas, the New Jersey School Boards Association (NJSBA) mails correspondence to all new board of trustee members who have failed to register for or attend training and did mail such correspondence to the above-named Board member on December 3, 2003 and February 3, 2004; and

Whereas, the NJSBA conducted seven training sessions between April 2003 and March 2004 at varying locations and continuously published the dates and times of the sessions in its publication, *School Board Notes*; and

Whereas, pursuant to *N.J.A.C. 6A:28-1.6(e)*, on May 26, 2004, the Commission, via certified mail, issued to the above-named Board member an Order to Show Cause why she had not attended a training up until that time; and

Whereas, the above-named Board member replied that she had been unable to attend training due to personal family matters, but that she would attend the October 2004 training session; and

Whereas, the Commission notified the above-named Board member that it would discuss this matter at its October 26, 2004 meeting, that she had the right to attend, that she could be found in violation of the School Ethics Act, and that she could receive a penalty up to removal; and

Whereas, the above-named Board member registered for the October 2004 training but did not attend that training session; and

Whereas, the Commission has found that this failure to attend board member training from April 2003 until October 2004 constitutes a violation of *N.J.S.A. 18A:12-33*; and

Whereas, at its meeting on October 26, 2004, the Commission voted to recommend that all charter school board of trustee members who had failed to attend the October training be suspended from the board until such time as they attended training; and

Whereas, on November 18, 2004, the above-named Board member was afforded an opportunity to submit written comments on the recommended sanction to the Commissioner; and

Whereas, neither the above-named Board member nor anyone on her behalf submitted comments; and

Whereas, the Commissioner of Education has carefully considered the record of this matter and the decision of the School Ethics Commission and finds the Commission's recommendation is inconsistent with the penalty recommended in previous matters of this nature with substantially similar facts, , wherein the Commission recommended, and the Commissioner concurred, that charter school board of trustee members who had failed to attend the requisite training well in excess of one year from their election to the Board should be: 1) suspended from office; 2) remain suspended pending completion of the requisite training; and, 3) summarily removed from office in the event they failed to complete the training session in January of the next year (*See, e.g., In the Matter of John Frohling, Learning Community Charter School Board of Trustees, Hudson County*, decided by the Commissioner December 22, 2003; *In the Matter of Veronica Sutton, Jersey City Community Charter School Board of Trustees, Hudson County*, decided by the Commissioner December 22, 2003; and *In the Matter of Wentford Gaines, Jersey City Community Charter School, Board of Trustees, Hudson County*, decided by the Commissioner December 23, 2003); and

Whereas, the School Ethics Commission did not articulate its reasons for not recommending the removal, absent attendance at a training session by a date certain, of Board of trustee members who had not attended training by October 2004; and

Whereas, the Commissioner, in the absence of such explanation, cannot concur with the Commission's recommendation and, instead, determines that immediate suspension, with subsequent removal if training is not completed by the date specified, is the proper penalty in this matter based upon the penalty imposed in prior matters of this nature; 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; provided, however, that, in the event she fails to complete one of the two training sessions offered in January 2005, the above-named Board member shall be summarily removed from office as of January 30, 2005.\*

COMMISSIONER OF EDUCATION

Date of Decision: December 9, 2004

Date of Mailing: December 9, 2004

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\* 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.