
IN THE MATTER OF	:	BEFORE THE
MARCUS SMITH	:	SCHOOL ETHICS COMMISSION
BEVERLY	:	DECISION FOR FAILURE
BOARD OF EDUCATION	:	TO FILE PERSONAL/RELATIVE
Burlington County	:	AND FINANCIAL DISCLOSURE
	:	STATEMENTS
	:	DOCKET NO. D01-09

PROCEDURAL HISTORY

This matter arises from an Order to Show Cause (OTSC) issued by the School Ethics Commission (Commission) on October 30, 2009, through regular and certified mail, return receipt requested, directing the respondent, a “school official” under N.J.S.A. 18A:12-23 of the School Ethics Act, to show cause as to why the Commission should not find the school official in violation of the School Ethics Act, N.J.S.A. 18A:12-21 *et seq.*, for failing to file Personal/Relative and Financial Disclosure statements required by N.J.S.A. 18A:12-25 and 26 *or* for filing statements that were identified as incomplete, but were not completed and returned in accordance with N.J.A.C. 6A:28-3.4.

The Commission therein provided notification that the school official had 20 days to respond to the OTSC, and that the failure to respond would be deemed an admission of the facts set forth in the Order. The school official was further notified that, upon receipt of the response or upon expiration of the 20-day time period for so filing, the Commission may proceed to a determination of a violation on a summary basis (*i.e.*, without a hearing or further proceedings) in accordance with N.J.A.C. 6A:28-1.6(c), which so permits when material facts are not in dispute.

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. Annually, on or before April 30th of each year, all school officials, as defined in N.J.S.A. 18A:12-23, must file both a Personal/Relative Disclosure Statement and a Financial Disclosure Statement with their local board secretaries or charter school designees. N.J.A.C. 6A:28-3.1(a).

Additionally, Board members in Type II school districts elected to their positions in the annual April school election or appointed to fill vacancies must file the requisite disclosure statements within 30 days of taking office. Board members in Type I school districts who are initially appointed to take office on May 16 or June 1, as the case may be, or who are appointed to fill vacancies, shall likewise file within 30 days of taking office. Members of the board of trustees of a charter school shall initially file the required disclosure statements within 30 days after the granting of the charter. Thereafter, any newly-appointed trustee shall have 30 days from appointment to file. Administrators, as defined in N.J.S.A. 18A:12-23, appointed to fill vacancies after the April 30 filing date, shall file the required disclosure statements within 30 days of their appointment. N.J.A.C. 6A:28-3.1(c), (d), (e).

Because the Commission was advised by the Executive County Superintendent that the respondent did not file the disclosure statements as required by the Act, an OTSC was issued. After having been served with the OTSC, the respondent filed the completed disclosure statements and did not dispute that the statements were untimely filed in accordance with the School Ethics Act.

DECISION/PENALTY RECOMMENDATION

Based on the record as set forth above, at its meeting on December 15, 2009, the Commission found the school official violated N.J.S.A. 18A:12-25 and 26. Where 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. The Commission recommended that the Commissioner of Education impose a sanction of reprimand.

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
Chairperson

Mailing Date: December 16, 2009

I hereby certify that this decision was duly adopted by the School Ethics Commission at its public meeting on December 15, 2009.

Joanne Boyle, Executive Director

E/financial disclosures/2009/decisions/template-reprimand