

Whereas, pursuant to *N.J.A.C.* 6A:28-1.5(j), the Commission issued an Order on September 17, 2004 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 filed the completed disclosure statement thereafter; 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 an answer to the Order or 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 26, 2004 to recommend censure of the above-named school official in light of his failure to respond to the Commission's reminder letter before the September 10, 2004 deadline, memorializing such decision through a resolution forwarded to the Commissioner, pursuant to *N.J.S.A.* 18A:12-29; and

Whereas, by letter dated October 28, 2004 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 censure; and

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

Whereas, the Commissioner of Education has carefully considered the record of this matter and the decision of the School Ethics Commission and finds that the Commission's recommendation is inconsistent with the penalty recommended in previous matters of this nature with substantially similar facts, (*See, e.g., In the Matter of Denise Irvin-Johnson, Willingboro Township Board of Education, Burlington County*, decided by the Commissioner

February 11, 2004 and *In the Matter of Joel Pabon, Sr., Perth Amboy Board of Education, Middlesex County*, decided by the Commissioner February 5, 2004, where the Commission recommended, and the Commissioner concurred, that where a school official completed and submitted the required disclosure statement after the issuance of an Order to Show Cause, but did not provide *any* reasons for failure to comply within the requirement under *N.J.S.A.* 18A:12-25 and 26, the appropriate penalty was a reprimand); and

Whereas, the penalty of reprimand has additionally been recommended and imposed under circumstances where noncompliance with the filing requirement was egregious, (*See, e.g., In the Matter of Beverly Evenson, Willingboro Township Board of Education, Burlington Township*, decided by the Commissioner December 22, 2003 and *In the Matter of Lynel Dunkins, Gateway Charter School, Hudson County*, decided by the Commissioner December 22, 2003, where the Commission recommended, and the Commissioner concurred, that where a school official did not complete the required disclosure statement after the issuance of an Order to Show Cause and did not provide any reasons for failure to comply with the requirement under *N.J.S.A.* 18A:12-25 and 26, the school official was suspended until such disclosure statement was filed and automatically removed from the Board if he/she failed to file the required statement within 30 days, but was reprimanded if he/she filed the necessary statement prior to the filing date of the Commissioner's decision); and

Whereas, the School Ethics Commission did not articulate its reasoning in recommending the imposition of the more severe penalty of censure in this instance; and

Whereas, the Commissioner, in the absence of such explanation, cannot concur with the Commission's recommendation and, instead, determines that a reprimand is the proper penalty in that it is consistent with the penalty imposed in prior matters of this nature, and

Whereas, the Commissioner nevertheless admonishes the school official for his/her failure to timely file the requisite statement in that such delay has caused administrative and adjudicative time to be wasted by local, county and state education officials; now therefore

IT IS ORDERED that the above-named school official be reprimanded as a school official found to have violated the School Ethics Act.*

COMMISSIONER OF EDUCATION

Date of Decision: December 1, 2004

Date of Mailing: December 2, 2004

* 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.