

IN THE MATTER OF RUDOLPH MCCULLERS, :

BOARD OF TRUSTEES OF GATEWAY : COMMISSIONER OF EDUCATION

CHARTER SCHOOL, HUDSON COUNTY : DECISION

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SYNOPSIS

The School Ethics Commission determined that Rudolph McCullers, former president of the Gateway Charter School Board of Trustees, violated the School Ethics Act, *N.J.S.A.* 18A:12-24(d), when he violated several provisions of the school laws and other statutes; took action on several occasions without Board approval; and committed other unauthorized acts. The Commission found probable cause that respondent, *inter alia*, failed to provide adequate notice of a closed executive meeting of the Board; signed certain checks without board authorization; knowingly hired an uncertified business administrator; violated public school bidding laws; and failed to carry out various duties as board president, resulting in the school being placed on probation.

After considering the nature of the charges, the Commission recommended a penalty of censure since Mr. McCullers is no longer a member of the Board and censure is the highest penalty that may be imposed on a former board member. Because of the extensive violations of the School Ethics Act, the Commission indicated that they would have recommended a sanction of removal if Mr. McCullers was still on the Board.

Upon review of the record, the Commissioner, whose decision is restricted solely to a review of the Commission's recommended penalty pursuant to *N.J.S.A.* 18A:12-29 (c) and *N.J.A.C.* 6A:3-9.1, concurs with the Commission's recommendation. The Commissioner thus orders that Rudolph McCullers be censured as a school official found to have violated the School Ethics Act.

<p>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.</p>

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The record in this matter and the decision of the School Ethics Commission (Commission) have been reviewed. Respondent filed no written comments to the Commission's decision. Upon full consideration, the Commissioner is constrained to adopt the recommendation of the Commission that respondent be censured.

Two complaints were consolidated in this matter. An answer to one of them was submitted, but it did not comply with the requirement set forth in *N.J.S.A. 18A:12-29(b)* that answers be given under oath. No answer to the other complaint was presented. Thus, the Commission considered the complaints as un rebutted. Further, because respondent did not file perfected answers, he could not attend the hearings on the two complaints.

The multiple paragraphs in the two complaints alleged that during his tenure as president of the Gateway Charter School Board of Trustees, respondent had: violated several provisions of the school laws and other statutes; taken action on several occasions without Board approval; and committed other *ultra vires* acts. Among the identified violations were the unilateral dismissal, without proper notice, of the complainant as Secretary to the Board, and the hiring of an unqualified replacement; interference in the administration of the school;

unauthorized signing of checks, including several to himself; unilateral hiring of contractors; failure to timely file certain financial documents and certifications on behalf of the school.

At a May 24, 2005 hearing the Commission determined that the material facts were not in dispute, and found probable cause to credit the allegations that respondent had violated *N.J.S.A.* 18A:12-24 (b) and (c), and *N.J.S.A.* 18A:12-24.1 (a) through (f). It notified respondent that it would decide the matter on the papers, and invited the respondent to provide a written submission by August 29, 2005, as to why the Commission should not find him in violation of the above referenced statutes, and should not impose a sanction. No written submission was received from respondent.

At a public meeting on September 27, 2005, the Commission found that respondent violated the above-referenced statutes. It recommended that the Commissioner impose the penalty of censure, since respondent was at that point no longer on the Board of Trustees, and since censure is the highest penalty that may be imposed upon a former Board member. The Commission also noted that “[b]ecause of the extensive violations of the Act, the Commission would have recommended a sanction of removal if Mr. McCullers was [sic] still on the Board.” The Commission’s decision was duly adopted by a formal resolution and forwarded to the Commissioner for action on the sanction only, pursuant to *N.J.S.A.* 18A:12-29.

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.

The Commissioner accepts the Commission's recommendation that censure is the appropriate penalty in this matter for the reasons set forth in the Commission's decision. In so ruling, the Commissioner is satisfied that in recommending a penalty for the violations it found, the Commission fully considered the nature of the offense and weighed the effects of aggravating and mitigating circumstances. The Commissioner accordingly imposes the penalty of censure.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 9, 2005

Date of Mailing: November 9, 2005

* The Commissioner's decision, limited to the imposition of a penalty only, 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.*