

#220-06SEC

SEC Decision: <http://www.state.nj.us/njded/legal/ethics/2005/C51-05v.pdf>

IN THE MATTER OF JAMES CHIEGO, :
 :
UNION TOWNSHIP BOARD OF EDUCATION, : COMMISSIONER OF EDUCATION
 :
HUNTERDON COUNTY. : DECISION
 :
_____ :

SYNOPSIS

The School Ethics Commission (Commission) determined that Union Township Board of Education member James Chiego violated *N.J.S.A.* 18A:12-24.1(e) of the Code of Ethics for School Board Members by taking private action that may compromise the Board with respect to a Certification he filed in another matter pending before the Commission. After considering the nature of the charge, the Commission recommended that the Commissioner of Education impose a penalty of censure upon Mr. Chiego.

Upon a thorough review of the record, the Commissioner, whose decision was 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, concurred with the Commission's recommendation. The Commissioner thus ordered that James Chiego 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>

June 16, 2006

IN THE MATTER OF JAMES CHIEGO, :
UNION TOWNSHIP BOARD OF EDUCATION, : COMMISSIONER OF EDUCATION
HUNTERDON COUNTY. : DECISION
_____:

The record of this matter and the decision of the School Ethics Commission (“Commission”), including the recommended penalty of censure, have been reviewed.

This matter comes before the Commissioner to impose a sanction upon Respondent James Chiego, member of the Union Township Board of Education, based upon findings of fact and conclusions of law by the Commission that he violated *N.J.S.A. 18A:12-24.1(e)* of the Code of Ethics for School Board Members by taking private action that may compromise the Board with respect to a Certification he filed in another matter pending before the Commission.

Upon issuance of the decision of the Commission, respondent was provided 13 days from the mailing of such decision to file written comments on the recommended penalty for the Commissioner’s consideration. Comments of counsel on behalf of Mr. Chiego urge that a penalty of censure is too onerous in this matter. He submits that, notwithstanding that Mr. Chiego signed a Certification which was submitted to the School Ethics Commission, it was not considered by that body because it was filed out of time. Moreover, he had no role in the dissemination of this document to the members of the Union Township Planning Board. Counsel further argues that punishing Mr. Chiego for expressing his personal opinion effectively

operates to chill his First Amendment rights, which he did not surrender by virtue of becoming a Board member. Finally, counsel proposes that even though Mr. Chiego's Certification caused controversy the evening it was disseminated to Planning Board members, there is no evidence that the relationship between the Board and the Planning Board has been compromised. As such, counsel asserts that Mr. Chiego should receive no penalty whatsoever or, in the alternative, the least onerous penalty possible, reprimand.

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 following a finding of a violation by the Commission. Therefore, this decision is restricted solely to a review of the Commission's recommended penalty.

Upon a thorough review of the record and full consideration of the comments submitted on behalf of Mr. Chiego, the Commissioner first notes that having found a violation of the School Ethics Act, the Commission was statutorily obligated to recommend a sanction for this infraction (See *N.J.S.A.* 18A:12-29c). As evidenced in its decision, the Commission recommended the more stringent penalty of censure because "although Mr. Chiego asserts that he did not read the entire certification when he signed it, he intended it to be submitted to the Commission for consideration. As a board member, he is responsible for ensuring the accuracy of his entire certification and he must be publicly held accountable for the consequences." (Commission Decision at 5) The Commissioner finds no cause to disturb the Commission's recommended penalty in this matter.

Accordingly, IT IS hereby ORDERED that James Chiegto be censured as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: June 16, 2006

Date of Mailing: June 16, 2006

* 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.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.