

#112-08SEC (SEC Decision: <http://www.nj.gov/education/legal/ethics/2005/c45-06.pdf>)

IN THE MATTER OF MARLENE POLINIK, :
BOARD OF EDUCATION OF THE :
TOWNSHIP OF WAYNE, PASSAIC COUNTY. :
_____:

COMMISSIONER OF EDUCATION
DECISION

SYNOPSIS

The School Ethics Commission (Commission) found that respondent – a member of the Wayne Township Board of Education – violated *N.J.S.A. 18A:12-24.1(c)* of the School Ethics Act when she went beyond the appraisal of employee candidates’ resumes and, after arriving at the board of education offices with no prior notice of her intent to stop in: 1) reviewed the available resumes and asked the secretary where the other resumes were; 2) upon finding that there were resumes in a locked office, asked the secretary if the secretary had a key; and 3) located a custodian who had the key after the secretary informed her that a custodian had a key. The Commission recommended a penalty of censure for the violation found.

The Commissioner – whose jurisdiction is limited to reviewing the Commission’s recommended sanction – adopted the Commission’s recommendation that respondent be censured, finding that the Commission properly weighed aggravating factors when considering the appropriate penalty in light of applicable case precedent.

<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>

March 10, 2008

SEC DKT. NO. C45-06
AGENCY DKT. NO. 32-1/08

IN THE MATTER OF MARLENE POLINIK, :
BOARD OF EDUCATION OF THE : COMMISSIONER OF EDUCATION
TOWNSHIP OF WAYNE, PASSAIC COUNTY. : DECISION
_____ :

The record of this matter and the decision of the School Ethics Commission (Commission) have been reviewed, as have the respondent's exceptions filed pursuant to *N.J.A.C. 1:6C-18.3*. In its decision, the Commission determined that respondent, Wayne Board of Education member Marlene Polinik, violated *N.J.S.A. 18A:12-24.1(c)* of the School Ethics Act (Act) when she went beyond the appraisal of employee candidates' resumes and – after arriving at the Board of Education offices with no prior notice of her intent to stop in and reviewing the available resumes – she:

1) asked the secretary where the other resumes were; 2) upon finding that [there were] resumes...in a locked office, asked the secretary if the secretary had a key; and 3) located a custodian who had the key after the secretary informed her that a custodian had a key.

(School Ethics Commission Decision at 9)

Having found similarities between the instant case and *In the Matter of William Lahn, Delsea School District, Gloucester County*, School Ethics Commission Decision No. 25-05, decided December 20, 2005; Commissioner of Education Decision 25-06SEC, decided January 23, 2006, the Commission recommended censure as the appropriate penalty.

The Commission's fact-finding and determination as to respondent's violation of the School Ethics Act are not reviewable herein, since, by law, only the Commission may

determine whether a violation of the Act has occurred, and appellate review of this determination lies with the State Board of Education rather than the Commissioner, whose jurisdiction is expressly limited to reviewing the Commission's recommended sanction once a violation has been found. *N.J.S.A.* 18A:12-29(c), *N.J.A.C.* 6A:3-9.1, and *N.J.A.C.* 1:6C-2.1. Given the limits of her authority in school ethics matters, the Commissioner cannot reach alleged deficiencies in the Commission's decision, but must rather accept it as valid and review the Commission's recommended penalty in that light.

Respondent excepts to the sanction of censure recommended by the Commission, contending that the Commission erred in finding that the instant matter is apposite to *Lahn*. In *Lahn*, a board member requested information from a secretary in the school guidance office; the secretary apparently gave it to him and was subsequently reprimanded. The Commission in that case (at 4) recommended censure over reprimand because the secretary had been disciplined, and because Lahn had been found to have violated the Act on more than one occasion.

Respondent argues that, in the instant case, the secretary was not disciplined and respondent was not found to have violated the Act on more than one occasion. The Commissioner notes, however, that it is the nature of the behavior that drives the penalty.

Respondent in this matter arrived at the Board offices with no prior notice. The Assistant Superintendent for Curriculum (Radina) asked respondent to wait in the personnel office until she (Radina) could call the Superintendent, who was out of the office. Respondent nonetheless demanded resumes from the district secretary without waiting for Radina to join her.

Further, after reading the resumes that she was given, respondent asked the secretary for more. When told they were locked in the office of the Assistant Superintendent for Administration, respondent unilaterally attempted to obtain a key – first from the secretary and

then from a custodian. Respondent's request caused the secretary to feel pressured. After Radina expressed discomfort with the idea of entering another assistant superintendent's locked office, respondent and two other Board members had a heated argument in a Board office conference room – further fostering a tense and disturbing business environment. Respondent did not abandon her pursuit of the resumes in the locked office until after telephone conversations with the superintendent and Board attorney.

It is this behavior – which extended beyond a simple request for information from a secretary – that persuaded the Commission that censure was appropriate in this matter. Notwithstanding that, in this instance, the secretary was not disciplined and respondent was not found to have violated the Act more than once, respondent's disregard of the administrators and the position of the secretary, her zeal in unilaterally pursuing the locked-up resumes, and her engagement in an argument that disturbed the working environment in the Board offices, were aggravating factors that the Commission legitimately regarded as grounds for censure.

Accordingly, the Commissioner adopts the Commission's recommended penalty and directs that respondent be censured as a school official found to have violated the Act.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: March 10, 2008

Date of Mailing: March 10, 2008

* This decision 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.*