

New Jersey Commissioner of Education
Final Decision

In the Matter of Kathie Lavin,
Freehold Regional Board of Education,
Monmouth County

The record of this matter and the decision of the School Ethics Commission (SEC) have been reviewed. The SEC found that respondent violated *N.J.S.A. 18A:12-33* by failing to timely complete the required board member training. The SEC's decision was forwarded to the Commissioner for final determination on the recommended penalty pursuant to *N.J.S.A. 18A:12-29(c)*. The SEC recommended a penalty of censure. Respondent has not instituted an appeal of the SEC's underlying finding of violation pursuant to *N.J.A.C. 6A:4-1 et seq.* but has filed exceptions to the recommended penalty.

In her exceptions, respondent argues that she had completed the required training by June 11, 2024, prior to the June 13, 2024 deadline set by the SEC in its correspondence to her. Respondent includes copies of three emails, which appear to be automatically generated by the Instructure training system, stating that three different assignments had been graded, with time stamps in the early morning on June 11, 2024. Respondent contends that, unbeknownst to her at the time, she had inadvertently failed to hit a required button at the end of the virtual course to allow it to be closed out and for notification to be provided to the New Jersey School Board Association (NJSBA), which offers the training programs. Respondent indicates that she only learned of the omission on July 3, 2024, through an email exchange between the SEC and the NJSBA, in

which the NJSBA confirmed that respondent completed the training but did not hit the submit button at the end. Respondent therefore urges the Commissioner to reject the recommended penalty of a censure.

Upon review, the Commissioner concurs with the penalty recommended by the SEC for respondent's failure to timely honor an obligation placed upon school officials by law. While respondent argues that she completed the training on June 11, 2023 – prior to the SEC's deadline – the record reflects that the NJSBA confirmed that respondent completed the training on June 18, 2024 – after the OTSC was issued. The Commissioner therefore concludes that respondent completed the training after the OTSC was issued. The Commissioner further concludes that *N.J.A.C. 6A:28-4.3(b)* applies and that, unless good cause is shown, a censure is the appropriate penalty.

Respondent's citation to cases in which the SEC reprimanded board members who experienced technical difficulties are not persuasive, as those cases pre-date the passage of *N.J.A.C. 6A:28-4.3(b)*. Previously, the School Ethics Act did not set a baseline penalty for failure to timely complete training, but the SEC and the Commissioner routinely reprimanded board members who completed the training after the SEC issued the OTSC but before it issued its decision. *See, e.g., In the Matter of Annette Beasley, Irvington Board of Education, Essex County*, Commissioner Decision No. 223-21SEC, decided October 13, 2021; *In the Matter of Marcos Garciga, Cliffside Park Board of Education, Bergen County*, Commissioner Decision No. 224-21SEC, decided October 13, 2021; *In the Matter of Gary Yedman, Seaside Park Board of Education, Ocean County*, Commissioner Decision No. 230-21SEC, decided October 13, 2021. Therefore, the penalty of a reprimand for the board members who experienced technical difficulties, such as those in the cases cited by respondent, was the same as the penalty imposed on board members who provided other reasons – or no reason – for their late completion.

In other words, the technical difficulties did not impact the penalty imposed. Here, respondent does not appear to have experienced technical difficulties, as there is no suggestion that she was unable to access the training system. Nonetheless, even accepting respondent's circumstances as a technical difficulty, the Commissioner concludes that it does not constitute good cause for her late completion of the training.

Accordingly, respondent is censured for violating the School Ethics Act.

IT IS SO ORDERED.¹



ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 4, 2024
Date of Mailing: September 5, 2024

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.

Before the School Ethics Commission
Docket No.: T11-24
Decision for Failure to Complete Mandatory Training
Requirement in a Timely Manner

I/M/O Kathie Lavin,
Freehold Regional Board of Education, Monmouth County

I. Procedural History

This matter arises from an Order to Show Cause (OTSC) that was issued by the School Ethics Commission (Commission) in connection with the above-captioned matter at its special meeting on June 17, 2024, directing Kathie Lavin (Respondent), a “board member” as defined in *N.J.S.A.* 18A:12-23 of the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.*, to show cause as to why the Commission should not find Respondent in violation of the Act, for failing to complete training as required by *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1.

In the OTSC that was served on June 17, 2024, the Commission notified Respondent that she had twenty (20) days to respond to the OTSC. Respondent was further advised that failure to respond would be deemed an admission of the facts set forth in the OTSC, and the Commission may take action on a summary basis, in accordance with *N.J.A.C.* 6A:28-1.6(c).

II. Analysis

The Act was enacted by the New Jersey State Legislature to ensure and preserve public confidence in members of local boards of education and local school administrators. *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1 require every board member to complete a training program prepared and offered by the New Jersey School Boards Association (NJSBA).

Respondent is a member of the Freehold Regional Board of Education, located in Monmouth County. As a result of her position as a board of education member, and in accordance with *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1, Respondent is required to complete a mandated training program on an annual basis. For convenience and ease, the training is offered online so any board member may complete it at any time, from anywhere. According to NJSBA, Respondent was required to complete the Governance 4 training program by December 31, 2023.

On or about May 7, 2024, the NJSBA provided the Commission with the names of those board of education members who failed to complete mandated training by December 31, 2023, and the list provided included Respondent. Prior to that time, multiple communications about mandated training were sent to Respondent from the NJSBA through a variety of means, including targeted e-mail messages on January 4, 2023, as well as postings in *School Board Notes* on 19 occasions. Notwithstanding all of these communications, Respondent did not complete mandated training.

As a final warning, the Commission’s staff sent e-mails to Respondent dated May 8, 2024, May 21, 2024, and June 5, 2024, advising Respondent that the Commission required completion of

the training by June 13, 2024, to avoid the issuance of an OTSC for non-compliance. Again, notwithstanding this correspondence, Respondent did not complete the required training. As a result, an OTSC was issued by the Commission at its special meeting on June 17, 2024.

To date, there is no dispute that Respondent did not complete her required training by December 31, 2023, and did not complete the training prior to the Commission's final deadline of June 13, 2024, and therefore, the Commission issued an OTSC at its meeting on June 17, 2024. After having been served with the OTSC, Respondent completed her training requirement, and also filed a response to the Commission's OTSC that did not dispute that she did not complete training in a timely fashion.

III. Decision/Penalty Recommendation

N.J.A.C. 6A:28-4.2(d) provides that school board members and charter school trustees who fail to comply with their training mandate shall be considered in violation of *N.J.S.A.* 18A:12-33. Based on the record as set forth above, at its meeting on July 23, 2024, the Commission found that Respondent violated *N.J.S.A.* 18A:12-33. Respondent received repeated notifications of her training requirement, and had ample opportunity to complete the mandated training in a timely fashion; nonetheless, Respondent failed to complete training as required.

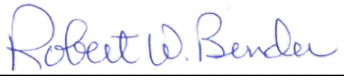
Where a violation of the Act is found by the Commission, it may recommend to the Commissioner of Education that a penalty be imposed. The recommended penalty can include a reprimand, censure, suspension or removal of the school official. *N.J.A.C.* 6A:28-9.11. Specifically, unless good cause is shown or the school official previously has been the subject of an OTSC, "the Commission shall recommend that a board member or trustee who completes training after the issuance of an Order to Show Cause, but before the Commission issues its decision, receives a censure." *N.J.A.C.* 6A:28-4.3(b).

For the reasons set forth above, the Commission recommends that the Commissioner of Education impose a penalty of **censure**.

Pursuant to *N.J.S.A.* 18A:12-29(c), this decision shall be forwarded to the Commissioner of Education for review of the Commission's recommended penalty. Respondent may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's finding of a violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of a violation.

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of a violation may file, within **thirteen (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, as indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, New Jersey 08625, marked "Attention: Comments on Ethics Commission Sanction." as well as to (ControversiesDisputesFilings@doe.nj.gov). A copy must also be sent to the Commission (school.ethics@doe.nj.gov) 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:4:1 et seq.* within **thirty (30) days** of the filing date of the decision from which the appeal is taken. The filing date shall be three (3) 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 (thirteen (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: July 23, 2024

***Resolution Adopting Decision for Failure to Complete Mandatory
Training Requirement in a Timely Manner
Docket No.: T11-24***

Whereas, Kathie Lavin (Respondent) is a “board member” as defined in *N.J.S.A.* 18A:12-23 of the School Ethics Act (Act); and

Whereas, as a board member, Respondent is required to complete a training program prepared and offered by the New Jersey School Boards Association (NJSBA) on an annual basis; and

Whereas, Respondent failed to complete her training program by December 31, 2023; and

Whereas, at its special meeting on June 17, 2024, the School Ethics Commission (Commission) issued an Order to Show Cause (OTSC) directing Respondent to show cause as to why she failed to complete her mandatory training by December 31, 2023, as required by *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1; and

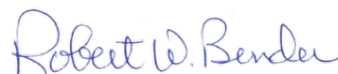
Whereas, after having been served with the OTSC, Respondent completed her training requirement, and also filed a response to the Commission’s OTSC that did not dispute that she did not complete training in a timely fashion;

Whereas, at its meeting on July 23, 2024, the Commission found that Respondent violated *N.J.S.A.* 18A:12-33 and *N.J.A.C.* 6A:28-4.1 by failing to complete the training requirement she was obligated to complete; and

Whereas, at its meeting on July 23, 2024, the Commission recommended that the Commissioner of Education impose a penalty of censure on Respondent; and

Whereas, at its meeting on July 23, 2024, the Commission agreed that the within decision accurately memorializes its findings and recommendations; and

Now Therefore Be It Resolved, that the Commission hereby adopts the within decision and directs its staff to notify all parties to this action of the decision.



Robert W. Bender, Chairperson

I certify that the within Resolution was duly adopted by the School Ethics Commission at its public meeting on July 23, 2024.



Brigid C. Martens, Director
School Ethics Commission