

279-99SEC

AGENCY DKT. NO. 226-8/99

IN THE MATTER OF HERMAN :
WHITE, BOARD OF EDUCATION : COMMISSIONER OF EDUCATION
OF MONTCLAIR, ESSEX COUNTY. : DECISION
_____ :

Whereas, the School Ethics Commission has acted pursuant to the authority granted to it by *N.J.S.A. 18A:12-21 et seq.* to recommend removal of the above-named school official for failure to file a personal/relative disclosure statement, pursuant to *N.J.S.A. 18A:12-25* and/or an annual financial disclosure statement required by *N.J.S.A. 18A:12-26*; and

Whereas, the deadline to file these disclosure statements was April 30, 1999 for school officials in office since January 30, 1999, or 30 days from swearing in or start of service for newly elected or appointed board members and administrators; and

Whereas, the School Ethics Commission, upon being advised by the County Superintendent that this school official did not file a disclosure statement with his/her school district, as required by the Act; and

Whereas, pursuant to *N.J.A.C. 6:3-9.3(i)*, on June 21, 1999, the Commission issued an Order to Show Cause directing this school official to demonstrate why he/she should not be found in violation of the Act for failing to file the necessary statement(s); and

Whereas, the above-named school official apparently failed to reply to the Order to Show Cause; and

Whereas, the Commission voted on July 27, 1999, to recommend removal of the above-named school official for failure to file a disclosure statement in violation of State statute, memorializing such decision through a resolution forwarded to the Commissioner, pursuant to *N.J.S.A.* 18A:12-29; and

Whereas, by letter dated August 5, 1999 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 removal; and

Whereas, on August 12, 1999, Mr. White submitted to the Commissioner a response to the Commission's resolution in which he averred that he faxed to the Commission a copy of his disclosure statement on July 13, 1999 and also provided a copy of said fax; and

Whereas, Mr. White further informed the Commissioner that he had resigned his position as a member of the Montclair Board of Education effective June, 1999; and

Whereas, upon contact with the Montclair Board, Mr. White's resignation was verified by the district superintendent of schools as being effective June 30, 1999; and

Whereas, the Commissioner of Education has carefully considered the record of this matter and the decision of the School Ethics Commission and, having done so, recognizes that the Commission's recommendation for removal of Herman White from office was based solely on its finding that he was in violation of the requirement for filing a disclosure statement, which requirement was, apparently, met without the Commission's knowledge; and

Whereas, Mr. White has resigned as a Board member effective June 30, 1999; now therefore

IT IS ORDERED that the Commission's recommendation for removal of Herman White is accordingly declined as moot.*

* This decision, as the Commissioner's final determination 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.* 6:2-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.

AUGUST 27, 1999

COMMISSIONER OF EDUCATION