

***Before the School Ethics Commission
Docket No.: T02-20
Decision for Failure to Complete Mandatory Training
Requirement in a Timely Manner***

***I/M/O Donna Siminiski,
Environment Community Opportunity Charter School, Camden County***

I. Procedural History

This matter arises from an Order to Show Cause (OTSC) that was issued by the School Ethics Commission (Commission) at its meeting on December 22, 2020, directing 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, *N.J.A.C.* 6A:28-4.1, and *N.J.A.C.* 6A:11-3.1(a).

In the OTSC served on December 22, 2020, the Commission notified Respondent that she had twenty (20) days to respond to the OTSC, and further advised that failure to respond would be deemed an admission of the facts set forth in the OTSC.¹ Respondent was also notified that, upon receipt of the response or upon expiration of the twenty (20) day time period for so filing, the Commission may proceed to a determination of a violation on a summary basis (i.e., without a hearing or further proceedings) in accordance with *N.J.A.C.* 6A:28-1.6(c), which so permits when material facts are not in dispute.

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 in local school administrators. By virtue of *N.J.S.A.* 18A:12-23.1, the breadth of the Act was expanded to include charter school trustees.

Respondent is a trustee of a charter school located in the City of Camden, County of Camden. Pursuant to *N.J.S.A.* 18A:12-23.1, the provisions of the Act were made applicable to administrators and members of a board of trustees of a charter school. As a result of her position as a charter school trustee, Respondent is required, pursuant to *N.J.S.A.* 18A:12-33, *N.J.A.C.* 6A:28-4.1, and *N.J.A.C.* 6A:11-3.1(a), to complete a training program prepared and offered by the New Jersey School Boards Association (NJSBA) on an annual basis. For convenience and ease, the training is offered online so any charter school trustee may complete it at any time, from anywhere. Respondent was required to complete Governance 2 training program by June 30, 2020.

On July 1, 2020, the NJSBA provided the Commission with the names of those charter school trustees who failed to complete mandated training by June 30, 2020, and the list provided by

¹ Due to the ongoing Coronavirus (COVID-19) pandemic, service of process was effectuated by the Commission through electronic transmission only.

NJSBA included Respondent. Prior to this time, multiple communications about mandated training were sent to Respondent from NJSBA through a variety of means, including targeted e-mail messages and postings in *School Board Notes*. More specific information detailing the outreach efforts of NJSBA to communicate with Respondent and/or the charter school lead about mandated training is set forth in the attached Certification from NJSBA. *See* Exhibit 1. Notwithstanding all of these communications, Respondent did not complete mandated training.

In addition to the communication efforts undertaken by the NJSBA, the Camden County Office of Education (County) also communicated with the Respondent regarding her failure to complete the mandated training requirement. More specifically, in November 2020, the Commission's staff notified the County that Respondent was identified as a school official who failed to complete training by June 30, 2020. As a result, the County sent correspondence to Respondent, with a copy to the Charter Lead, advising that Respondent remained delinquent in completing training. Notwithstanding this correspondence from the County, Respondent did not complete training as directed.

As a final warning, the Commission sent a letter to Respondent dated December 10, 2020, via electronic mail, advising her that the Commission requires completion of the training to avoid the issuance of an OTSC for non-compliance.² This final warning letter provided instructions to Respondent on how to complete training. Again, notwithstanding this correspondence, Respondent did not complete the required training. As a result, an OTSC was served on Respondent.

To date, there is no dispute that Respondent did not complete her required training by June 30, 2020 and did not complete the training prior to the issuance of the Commission's OTSC. After having been served with the OTSC, Respondent failed to respond to the Commission's OTSC as to why she did not complete training by June 30, 2020, and also failed to complete training as required by *N.J.S.A.* 18A:12-33, *N.J.A.C.* 6A:28-4.1, and *N.J.A.C.* 6A:11-3.1(a).

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 January 26, 2021, the Commission found that Respondent violated *N.J.S.A.* 18A:12-33, as well as *N.J.A.C.* 6A:28-4.1 and *N.J.A.C.* 6A:11-3.1(a). Respondent received repeated notifications of her training requirement, and had ample opportunity to complete the mandated training in a timely fashion; nonetheless, she failed to complete training as required.

In addition, the Commission readily acknowledges and is sympathetic to the fact that the Coronavirus (COVID-19) has had a significant impact on the daily lives of all people, and believes that reasonable accommodations and extensions of deadlines are appropriate and warranted in certain circumstances. However, the Commission notes that training is completed annually, can be completed from any computer or device with an internet connection, and that the Commission was only required to issue an OTSC to *six (6)* charter school trustees throughout the State about the

² Again, due to the ongoing Coronavirus (COVID-19) pandemic, this communication was also sent via electronic transmission.

statutory obligation to complete training. As such, there is no reasonable basis for Respondent, based on the current record, to have failed to comply with this mandate.

Where a violation of the Act is found by the Commission, the Commission 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:28-10.12. For the reasons set forth above, the Commission recommends that the Commissioner of Education impose a penalty of **removal**, with such removal to become effective immediately upon adoption by the Commissioner of Education. However, if Respondent completes training before the Commissioner of Education adopts a final decision (which will be forty-five (45) days after the mailing date of the within decision), then the Commission recommends that the Commissioner of Education, in lieu of removal, impose a **thirty (30) day suspension**, with such suspension to become effective immediately upon adoption by the Commissioner of Education.

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." A copy of any comments filed must be sent to the Commission 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: January 26, 2021

**Resolution Adopting Decision for Failure to Complete Mandatory Training
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Whereas, pursuant to *N.J.S.A.* 18A:12-23.1, all charter school trustees, including Respondent, are subject to the provisions of the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.*; and

Whereas, Donna Siminiski (Respondent) is a charter school trustee of Environment Community Opportunity Charter School; and

Whereas, the Act requires Respondent 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 Governance 2 training program by June 30, 2020; and

Whereas, at its meeting on December 22, 2020, 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 June 30, 2020, as required by *N.J.S.A.* 18A:12-33, *N.J.A.C.* 6A:28-4.1, and *N.J.A.C.* 6A:11-3.1(a); and

Whereas, after having been served with the OTSC, Respondent failed to respond to the Commission's OTSC as to why she did not complete training by June 30, 2020, and also failed to complete training as required by *N.J.S.A.* 18A:12-33, *N.J.A.C.* 6A:28-4.1, and *N.J.A.C.* 6A:11-3.1(a); and

Whereas, at its meeting on January 26, 2021, the Commission found that Respondent violated *N.J.S.A.* 18A:12-33, *N.J.A.C.* 6A:28-4.1, and *N.J.A.C.* 6A:11-3.1(a) by failing to complete the training requirement she was obligated to complete; and

Whereas, at its meeting on January 26, 2021, the Commission recommended that the Commissioner of Education impose a penalty of removal, with such removal to become effective immediately upon adoption by the Commissioner of Education. However, if Respondent completes training before the Commissioner of Education adopts a final decision (which will be forty-five (45) days after the mailing date of the within decision), then the Commission recommends that the Commissioner of Education, in lieu of removal, impose a thirty (30) day suspension, with such suspension to become effective immediately upon adoption by the Commissioner of Education; 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 January 26, 2021.

Kathryn A. Whalen, Director