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<b>IN THE MATTER OF</b>	:	<b>BEFORE THE</b>
<b>DIANNA WHITTAKER</b>	:	<b>SCHOOL ETHICS COMMISSION</b>
<b>Hi Nella Board of Education</b>	:	<b>DECISION FOR</b>
<b>Camden County</b>	:	<b>FAILURE TO ATTEND TRAINING</b>
	:	<b>DOCKET NO. T07-09nb</b>
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## **PROCEDURAL HISTORY**

This matter arises from an Order to Show Cause issued by the School Ethics Commission on June 25, 2009 to the above-named respondent alleging that the board member/charter school trustee violated N.J.S.A. 18A:12-33 for failure to complete, during the first year of the respondent's first term, a training program offered by the New Jersey School Boards Association (NJSBA) entitled "New Board Member Orientation" which includes the skills and knowledge necessary to serve as a local school board member or charter school trustee.

The respondent was advised by the NJSBA of the training requirement in writing upon election or appointment, as well as through notices published in its newsletter, *School Board Notes*. The NJSBA conducted six training sessions between May, 2008 and March, 2009 at varying locations and continuously published the dates and times of those sessions in *School Board Notes*. By correspondence dated March 2, 2009, the School Ethics Commission notified all board secretaries and charter school designees of the training mandates and encouraged them to register any board member or trustee who had not yet complied with the mandate. An additional two training opportunities were offered in May and June 2009.

As required by N.J.A.C. 6A:28-4.2(c), the NJSBA provided the School Ethics Commission with a report listing those board members and trustees who had not fulfilled the training mandate for the first year of their first term. The report from the NJSBA indicated that the respondent failed to attend the orientation program within the required period.

The June 25, 2009 OTSC, sent to the respondent via regular and certified mail, specifically stated, pursuant to N.J.A.C. 6A:28-1.6, that the respondent must show cause under oath and in writing before the Commission, within 20 days of receipt of the Order, reasons why the board member/trustee should not be found in violation of N.J.S.A. 18A:12-33. The respondent filed a timely response to the Commission's OTSC acknowledging failure to attend the New Board Member Orientation program.

## **ANALYSIS**

The School Ethics Act, N.J.S.A. 18A:12-21 et seq. was enacted by the New Jersey State Legislature to ensure and preserve public confidence in school board members and school administrators; N.J.S.A. 18A:12-33 requires that each newly elected or appointed board member and charter school trustee complete, during the first year of the member's first term, a training program offered by the NJSBA. There is no dispute that the respondent did not complete the orientation program, notwithstanding fair and adequate notice of this long-standing training obligation and ample opportunity to do so.

## DECISION/PENALTY RECOMMENDATION

N.J.A.C. 6A:28-4.2(d) provides that board members and trustees failing to comply with the training mandate shall be considered in violation of N.J.S.A. 18A:12-33. The respondent failed to comply with the training mandate, and is, therefore, in violation of N.J.S.A. 18A:12-33. If a violation of the School Ethics Act is found by the Commission, it may recommend to the Commissioner the reprimand, censure, suspension or removal of the school official. N.J.A.C. 6A:28-10.12. The Commission recommends to the Commissioner of Education that the respondent be suspended from the above-named Board until demonstrating completion of the orientation program, and further recommends that the board member/trustee be removed from the Board if the orientation program is not completed by November 14, 2009. Should the respondent complete the training prior to the Commissioner's issuance of a final decision in this matter, the Commission recommends that the respondent be censured for failing to timely attend the orientation program.

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

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of violation may file, within **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, indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, NJ 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the School Ethics 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 within **30 days** of the filing date of the decision from which the appeal is taken. The filing date shall be three 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 (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.

Paul C. Garbarini  
Chairperson

Mailing Date: July 29, 2009

I hereby certify that this decision was duly adopted by the School Ethics Commission at its public meeting on July 28, 2009.

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Joanne Boyle, Executive Director