

IN THE MATTER OF
RICHARD IRVING

DR. LENA EDWARDS ACADEMIC
CHARTER SCHOOL,
HUDSON COUNTY

: BEFORE THE SCHOOL
: ETHICS COMMISSION
:
: DECISION FOR FAILURE TO
: COMPLETE MANDATORY
: TRAINING REQUIREMENT IN A
: TIMELY MANNER
:
: DOCKET NO.: T15-16

PROCEDURAL HISTORY

This matter arises from an Order to Show Cause (OTSC) issued by the School Ethics Commission (Commission) at its meeting on March 28, 2017, and mailed on March 29, 2017 via regular and electronic mail, 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 mailed on March 29, 2017, the Commission notified Respondent that he 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. 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.

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, N.J.A.C. 6A:28-4.1, and N.J.A.C. 6A:11-3.1(a) require every charter school trustee to complete a training program prepared and offered by the New Jersey School Boards Association (NJSBA).

Respondent is a trustee of a charter school located in the City of Jersey City, County of Hudson. As a result of his position as a charter school trustee, and in accordance with the statute and regulations cited above, Respondent is required to complete a mandated training program on an annual basis. For convenience and ease, the training is offered online and, in this way, any charter school trustee may complete it at any time, from anywhere. By June 30, 2016, Respondent was required to complete the Governance 3 training program.

On January 5, 2017, NJSBA provided the Commission with the names of those charter school trustees who failed to complete mandated training by June 30, 2016, and the list provided 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* regarding scheduled on-site mandated training. More

specifically, on July 25, 2016, Respondent was registered to take Governance 3 and an e-mail with the link to take the offered training was sent to Respondent's e-mail address. On October 19, 2016, an additional e-mail notice was sent to all charter school trustees who had not yet completed training, including Respondent. In addition, an on-site training was provided at NJSBA's Workshop on Thursday, October 27, 2016. On November 30, 2016, NJSBA sent a letter to Respondent again advising of non-compliance with the mandatory training requirement, and a link to the online training was, once again, provided to Respondent. NJSBA also sent a reminder communication to Respondent's Charter Lead on November 30, 2016. Notwithstanding all of these communications, Respondent did not complete mandated training.

In addition to the communication efforts undertaken by the NJSBA, Respondent's County Office of Education (County) also communicated with the Respondent regarding his failure to complete the mandated training requirement. More specifically, in January, 2017, the Commission's staff notified the County that the NJSBA had identified Respondent as a school official who failed to complete training by June 30, 2016. 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 March 3, 2017 via regular and electronic mail, advising him that the Commission requires completion of the training to avoid the issuance of an OTSC for non-compliance. This final warning letter detailed instructions for how Respondent could complete training. Again, notwithstanding this correspondence, Respondent did not complete the required training. As a result, an OTSC was mailed to Respondent on March 29, 2017.

To date, there is no dispute that Respondent did not complete his required training by June 30, 2016, and did not complete the training prior to the issuance of the Commission's OTSC. After having been served with the OTSC, Respondent completed his training requirement, and also filed a response to the Commission's OTSC. Importantly, Respondent did not deny that he did not complete training in a timely fashion.

DECISION/PENALTY RECOMMENDATION

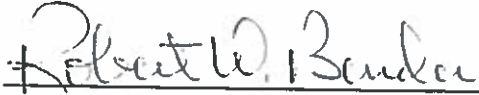
N.J.A.C. 6A:28-4.2(d) provides that school board members and charter school trustees who fail to comply with their training mandate shall be considered in violation of N.J.S.A. 18A:12-33. Based on the record as set forth above, at its meeting on April 25, 2017, the Commission found that Respondent violated N.J.S.A. 18A:12-33. Respondent received repeated notifications of his training requirement, and had ample opportunity to complete the mandated training in a timely fashion; nonetheless, he failed to complete training as required.

Where a violation of the Act is found by the Commission, the Commission may recommend to the Acting 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 Acting Commissioner of Education impose a penalty of **reprimand**.

Pursuant to N.J.S.A. 18A:12-29(c), this decision shall be forwarded to the Acting 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.

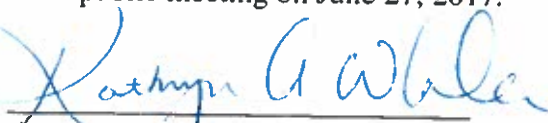
Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of a violation may file, within **thirteen (13) days** from the date the Commission's decision is forwarded to the Acting Commissioner, written exceptions regarding the recommended penalty to the Acting Commissioner. The forwarding date shall be the mailing date to the parties, as indicated below. Such exceptions must be forwarded to: Acting 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 Acting Commissioner's review of the Commission's recommended sanction will be deferred and incorporated into the Acting 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: June 28, 2017

I hereby certify that this decision was duly adopted by the School Ethics Commission at its public meeting on June 27, 2017.


Kathryn A. Whalen, Director

IN THE MATTER OF
RICHARD IRVING

DR. LENA EDWARDS ACADEMIC
CHARTER SCHOOL,
HUDSON COUNTY

: BEFORE THE SCHOOL
: ETHICS COMMISSION
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: RESOLUTION ADOPTING
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WHEREAS, Richard Irving (Respondent) is a Charter School Trustee of the Dr. Lena Edwards Academic Charter School; and

WHEREAS, as a Charter School Trustee, 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 his Governance 3 training program by June 30, 2016; and

WHEREAS, at its meeting on March 28, 2017, the School Ethics Commission (Commission) issued an Order to Show Cause (OTSC) directing Respondent to show cause as to why he failed to complete his mandatory training by June 30, 2016 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 completed his training requirement, and also filed a response to the Commission's OTSC that did not dispute that he did not complete training in a timely fashion; and

WHEREAS, at its meeting on April 25, 2017, 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 he was obligated to complete; and

WHEREAS, at its meeting on April 25, 2017, the Commission recommended that the Acting Commissioner of Education impose a penalty of reprimand on Respondent; and

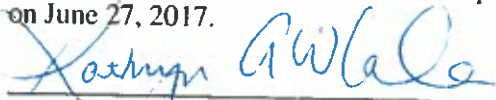
WHEREAS, at its meeting on June 27, 2017, the Commission agreed that the within decision accurately memorializes its findings and recommendations; and

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
School Ethics Commission

I certify that the within Resolution was duly adopted by the School Ethics Commission at its public meeting on June 27, 2017.


Kathryn A. Whalen, Director