
**IN THE MATTER OF
JUDITH RIVERA KIRTZ
Camden’s Promise Charter School
Camden County**

**BEFORE THE SCHOOL
ETHICS COMMISSION

DECISION FOR
FAILURE TO ATTEND TRAINING

DOCKET NO. T39-10NB**

PROCEDURAL HISTORY

This matter arises from an Order to Show Cause issued by the School Ethics Commission on November 1, 2010 to the above-named respondent alleging that the board member/trustee failed to complete training as required by N.J.S.A. 18A:12-33 and offered by the New Jersey School Boards Association (NJSBA). Pursuant to N.J.S.A. 18A:12-33, all board members and charter school trustees must complete:

- during the first year of their first term, a training program offered by the NJSBA identified as “New Board Member Orientation” (N.J.A.C. 6A:28-4.1(a) and (N.J.A.C. 6A:11-3.1(d));
- in the second year of their first term, a training program offered by the NJSBA which, for the 2009-2010 training cycle, was identified as “NJQSAC” (N.J.A.C. 6A:28-4.1(a));
- in the third year of their first term, a training program offered by the NJSBA, which for the 2009-2010 training cycle, was identified as “Finance” (N.J.A.C. 6A:28-4.1(a)); and
- within one year after re-election or re-appointment to a board, a training program offered by the NJSBA, which for the 2009-2010 training cycle, was identified as “Legal Update.” (N.J.A.C. 6A:28-4.1(a)).

The NJSBA advises all newly elected and appointed board members and trustees of this training requirement in writing upon their election or appointment and continues to advise them through notices published in its newsletter, School Board Notes. The NJSBA conducted five NBMO training sessions between May 2009 and January 2010 at varying locations and continuously published the dates and times of those sessions in School Board Notes and on the NJSBA website. As well, by correspondence dated April 30, 2010, the School Ethics Commission notified all board members/trustees who were not compliant with the training mandate of a final opportunity to obtain the necessary NBMO training on June 12, 2010. In July 2010, the School Ethics Commission issued a Notice of Enforcement to the respondent’s Board Secretary/Charter School Administrator, with a copy of the same to the respondent, notifying that the NJSBA identified this board member/trustee as having failed to complete the NBMO training program within the required training period. This notice also provided the opportunity to inform the Commission of any errors in its data.

Pursuant to N.J.A.C. 6A:28-4.2(c), the NJSBA is required to provide the School Ethics Commission with a report listing those board members and trustees who have not fulfilled the training mandate. The 2010 report from the NJSBA indicated that the respondent failed to complete the NBMO training program within the required time period.

The November 1, 2010 Order to Show Cause 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 failed to respond to the Commission’s Order and has not attended the requisite training.

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 each board member and charter school trustee to complete training, as specified above.

There is no dispute that the respondent did not complete the required training program prior to the issuance of the Commission's show cause order. 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 timely comply with the training mandate, and is, therefore, in violation of N.J.S.A. 18A:12-33.

DECISION

At its meeting on November 23, 2010, the Commission voted to find the respondent in violation of N.J.S.A. 18A:12-33 and to recommend a penalty, as set forth below.

PENALTY

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. Upon review of the record in this matter the Commission recommends to the Commissioner of Education that the respondent be suspended from the above-named Board until demonstrating completion of the New Board Member Orientation program, and further recommends that the board member/trustee be removed from the Board if the New Board Member Orientation Program is not completed by January 8, 2011. However, 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 complete the 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.

Robert W. Bender
Chairperson

Mailing Date: November 24, 2010

I hereby certify that this decision was duly adopted by the School Ethics Commission at its public meeting on November 23, 2010.

Joanne Boyle, Executive Director

E/training/2010/Decisions after OTSC/T09-10NB