

meeting on March 24, 2015, pursuant to N.J.A.C. 6A:28-10.8. At its meeting on March 24, 2015, the Commission voted to find that the above-captioned Complaint was not frivolous, in accordance with the standard set forth at N.J.A.C. 6A:28-1.2; and voted to transmit this Complaint to the Office of Administrative Law (OAL) for a plenary hearing on Count 3 of the Complaint. The Complainant carries the burden to prove factually any violations of N.J.S.A. 18A:12-24.1(f), under the Code of Ethics for School Board Members within the standards set forth at N.J.A.C. 6A:28-6.4. The matter was transmitted to the OAL on June 12, 2015.

Thereafter, this matter was scheduled for hearing before an Administrative Law Judge (ALJ) on March 21, 2016; however, the Complainant failed to appear for the hearing. By notice of March 23, 2016, the OAL advised the Complainant of his nonappearance and granted him 13 days to submit to the Commission an explanation for his failure to appear, due on April 5, 2016. Since the Complainant did not submit an explanation, the OAL returned to the Commission the case for disposition on April 6, 2016. At its meeting on April 26, 2016, the Commission determined to take no further action on the Complaint and voted to dismiss it in its entirety.

ANALYSIS

Pursuant to N.J.S.A. 18A:12-29(b) and N.J.A.C. 6A:28-6.4, it is the Complainant's burden to factually establish a violation of the Code of Ethics for School Board Members in accordance with the standards set forth in the Commission's regulations. Where a party fails to appear for a hearing at the OAL, regulations provide the ALJ with the discretion to return the case to the transmitting agency for appropriate disposition, with notice to the parties, which may result in a summary dismissal of the case. N.J.A.C. 1:1-14.4(a).

Here, by notice dated March 23, 2016, the ALJ returned the case to the Commission, noting the Complainant's nonappearance for a scheduled plenary hearing on March 21, 2016 and directing that if the Complainant still wanted a hearing, he must provide an explanation to the Commission for his nonappearance, in writing, within 13 days of the notice, with copies of any such explanation to all other parties. The Complainant did not respond to the ALJ's notice.

DECISION

Having failed to submit an explanation for his nonappearance and noting the burden of proof in this matter, the Commission dismisses the within Complaint for failure to prosecute. This decision is a final decision of an administrative agency which is appealable only to the Superior Court--Appellate Division. See, New Jersey Court Rule 2:2-3(a).

Robert W. Bender
Chairperson

Mailing Date: April 27, 2016

Resolution Adopting Decision – C09-14

Whereas, at its meeting on March 24, 2015, the Commission voted to transmit this matter to the Office of Administrative Law (OAL) for a hearing; and

Whereas, after transmittal to the OAL, the Complainant failed to appear for the scheduled hearing; and

Whereas, pursuant to N.J.A.C. 1:1-14.4(a), the OAL returned the matter to the Commission, directing that the Complainant provide an explanation for his failure to appear; and

Whereas, the Complainant failed to provide an explanation for his non-appearance; and

Whereas, at its meeting on April 26, 2016, the Commission voted to dismiss the Complaint; and

Whereas, the Commission has reviewed and approved the decision memorializing said action;

Now Therefore Be It Resolved, that the Commission hereby adopts the decision and directs its staff to notify all parties to this action of its decision herein

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on April 26, 2016.

Joanne M. Restivo
Acting Executive Director