

IN THE MATTER OF JOHN TALTY :
AND SHARON KIGHT, :
BRICK TOWNSHIP BOARD OF EDUCATION, : COMMISSIONER OF EDUCATION
OCEAN COUNTY. : DECISION
_____ :

SYNOPSIS

This matter arose from complaints filed against two members of the Brick Township Board of Education, alleging violations of the School Ethics Act, *N.J.S.A.* 18A:12-21 et seq. The two complaints were filed by one individual, Robert Lanzieri, and alleged that both respondents physically and verbally attacked Mr. Lanzieri at the March 17, 2005 Board Meeting.

Following a hearing and review of written summations, the School Ethics Commission (Commission) found that: 1) Mr. Talty did not violate *N.J.S.A.* 18A:12-24.1 (e) of the Code of Ethics for School Board Members, and 2) Ms. Kight did violate *N.J.S.A.* 18A:12-24.1 (e); the Commission recommended a sanction of a two-month suspension for Ms. Kight.

Upon a thorough review of the record, the Commissioner, whose decision was restricted solely to a review of the Commission's recommended penalty pursuant to *N.J.S.A.* 18A:12-29(c) and *N.J.A.C.* 6A:3-9.1, concurred with the Commission's recommendation. The Commissioner thus ordered that Sharon Kight be suspended from the Brick Township Board of Education for a period of two months.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

March 1, 2006

IN THE MATTER OF JOHN TALTY :
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The record of this matter and the decision of the School Ethics Commission (“Commission”), including the recommended penalty of a two month suspension, have been reviewed.

This matter comes before the Commissioner to impose a sanction upon Sharon Kight, member of the Brick Township Board of Education, based upon findings of fact and conclusions of law by the Commission that she violated *N.J.S.A. 18A:12-24.1(e)* of the Code of Ethics for School Board Members in the School Ethics Act when she took private action in confronting a member of the public in a verbal and physical manner regarding his comments during the public comment session at the March 17, 2005 Board meeting.¹

Upon issuance of the decision of the Commission, the parties were provided 13 days from the mailing of such decision to file written comments on the recommended penalty for the Commissioner’s consideration. Comments on behalf of Ms. Kight and complainant, Robert Lanzieri, were timely filed by their respective counsel.² Ms. Kight’s comments profess that, based on the facts of this matter, a penalty of a two-month suspension is “disproportionately

¹ It is noted that at its January 24, 2006 public meeting, the School Ethics Commission found that Mr. Talty did not violate *N.J.S.A. 18A:12-24.1(e)* and voted to dismiss the complaint against him.

² Stephen K. Foran, Esq. for Ms. Kight; John G. Koufos Esq. for Mr. Lanzieri

severe” in that the Commission’s decision readily admits that there was contradictory testimony with respect to the interaction which took place with Mr. Lanzieri. Moreover, she advances, there was “no reasonable proof” offered that she either had physical contact with him or that she used any inappropriate language. Although it is true that she was admittedly “upset” with Mr. Lanzieri, Ms. Kight urges that a board member’s tone of voice and annoyed demeanor are simply insufficient justification for imposing the draconian penalty of a two-month suspension. (Ms. Kight’s comments at 1)

Ms. Kight further contends that the Commission’s finding that her actions intimidated Mr. Lanzieri and made him fearful of addressing the Board in the future are unfounded. Rather, she points out, the “lengthy diatribes” which he addressed to the Board prior to this incident continued subsequent to that time. Specifically, she contends, he spoke at length at Board meetings of July 11, August 25, September 15 and November 17, 2005, wholly dispelling notions of fear and intimidation. (*Id.*)

Finally, Ms. Kight cites to three prior Ethics Commission cases which she proposes evidence the undue harshness of the sanction imposed here, *i.e.*, *In the Matter of Edmund J. Zilinski, Bloomfield Board of Education, Essex County*, decided by the Commissioner November 23, 2005, (Board member organized confidential information containing the names of suspended students on a spreadsheet and accidentally transmitted the information to other Board members); *In the Matter of Bruce Freilich, Washington Township Board of Education, Burlington County*, decided by the Commissioner April 4, 2005, (Board member sent an unauthorized letter to a private donor); and *In the Matter of Alphonse A. DeMeo, Bellville Board of Education, Essex County*, decided by the Commissioner November 17, 2004, (Board member endorsed a municipal council candidate by mailing letters on stationery which could be viewed

as an endorsement made in the Board member's capacity as Board President). Ms. Kight submits that, unlike the situation here which the Commission concedes is based on unclear and disputed facts, each of the cited cases was based on uncontested facts and the penalty imposed was only a reprimand. Ms. Kight argues that, under these circumstances and in light of the nature of her offense, logic dictates a lesser not more severe penalty be imposed. (Ms. Kight's comments at 2)

Mr. Lanzieri's comments urge the Commissioner to uphold the Commission's recommended penalty arguing that it is entirely appropriate "given Ms. Kight's unprofessional, irrational and violent behavior which has a chilling effect on how others may exercise their right to public comment in the future." (Mr. Lanzieri's comments at 1)

Initially, it must be emphasized that pursuant to *N.J.S.A.* 18A:12-29(c) and *N.J.A.C.* 6A:3-9.1, the determination of the Commission as to violation of the School Ethics Act is **not reviewable by the Commissioner** herein. Only the Commission may determine whether a violation of the School Ethics Act occurred. The Commissioner's jurisdiction is limited to reviewing the sanction to be imposed following a finding of a violation by the Commission. Therefore, this decision is restricted solely to a review of the Commission's recommended penalty.

Upon a thorough review of the record, the Commissioner finds Ms. Kight's arguments in support of mitigation of penalty unpersuasive. Notwithstanding the Commission's recognition of the existence of contradictory evidence as to *exactly* what transpired in the Kight/Lanzieri interaction, it specifically found:

[t]he weight of the evidence shows that Ms. Kight approached Mr. Lanzieri in an aggressive manner, screamed at him and threatened him. There is also evidence to show that she made some type of physical contact with Mr. Lanzieri. The evidence

also shows that her actions have had an impact on both Mr. Lanzieri and Mr. Dubrosky, who do not feel comfortable speaking at Board meetings. The Commission finds that such aggressive actions had the potential to compromise the Board because the actions hurt the integrity of the Board and intimidated the public from coming forward and addressing the Board. (Ethics Commission Decision at 5)

It cannot reasonably be disputed that a Board member's loss of control with a member of the public does a disservice to her Board, which relies upon her to conduct herself properly and appropriately in fulfilling her responsibilities, and that such an interaction could have deleterious effects on not only Mr. Lanzieri and Mr. Dubrosky but other members of the public viewing the altercation and, therefore, must be viewed as serious in nature.³ The Commissioner's review persuades her that, in recommending a penalty for this violation, the Commission fully considered the nature of the offense and weighed the effects of aggravating and mitigating circumstances. Consequently, the Commissioner finds no cause to disturb the Commission's recommended penalty in this matter.

Accordingly, IT IS hereby ORDERED that Sharon Kight be suspended from the Brick Township Board of Education for a period of two months⁴

IT IS SO ORDERED.⁵

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 1, 2006

Date of Mailing: March 1, 2006

³ It is noted that none of the cases advanced by Ms. Kight in support of her position is similar enough in nature or factual circumstances to the instant matter so as to provide precedential support for her position.

⁴ Such suspension shall be effective beginning three days after the issuance of this decision.

⁵ This decision, as the Commissioner's final determination regarding penalty in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A:4-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.