

GLENN CIRIPOMPA, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
BOROUGH OF BOUND BROOK,
SOMERSET COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner – a tenured teacher employed in respondent’s school district – filed an appeal alleging that a statement placed on the respondent Board’s website, following an Appellate Division decision that reinstated petitioner to his teaching position, was factually inaccurate, misleading and defamatory. The website statement expressed the Board’s concern that it was required “to put back in to the classroom a teaching staff member found guilty of utilizing his school district computer and school district email account to engage in conduct of a highly inappropriate nature, including sending and receiving nude photographs and soliciting sexual liaisons and services.” The petitioner sought an order declaring that all of the named respondents engaged in conduct unbecoming when they approved and posted the website statement; petitioner further sought to have the respondents removed from their positions. The Board filed a motion to dismiss on the grounds that petitioner alleged no violations of the school laws, and the matter is therefore not within the jurisdiction of the Commissioner of Education.

The ALJ found, *inter alia*, that: petitioner sought an order declaring that members of the Board and administrators in the school district engaged in unbecoming conduct for their role in posting what petitioner contended was a willful and malicious statement on the district’s website; even if petitioner’s contention was factually accurate, it does not create a cause of action under New Jersey school laws against the Board and/or its administrators; any action to remove school administrators must be brought under the tenure provisions of *N.J.S.A. 18A:6-10*; any action against individual school board members should be brought before the School Ethics Commission pursuant to *N.J.S.A. 18A:12-21 et seq.*; and any action alleging a willful and malicious interference with petitioner’s employment, and/or a claim for defamation – including a claim for damages – must be brought in the Superior Court. The ALJ concluded that there is not cause of action that falls under the school laws in this matter. Accordingly, the Board’s motion to dismiss was granted.

Upon review, the Commissioner concurred with the ALJ’s determination that the within petition must be dismissed for lack of jurisdiction. In so finding, the Commissioner noted that – while *N.J.S.A. 18A:6-9* grants the Commissioner jurisdiction to hear and decide controversies arising under the school laws – the Commissioner’s jurisdiction does not extend to all matters involving school personnel, nor does *N.J.S.A. 18A:6-9* authorize the Commissioner to ignore the requirements contained in the school law statutes. Accordingly, the Initial Decision was adopted as the final decision in this matter, and the petition was dismissed.

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.

OAL DKT. NO. EDU 121-16
AGENCY DKT. NO. 354-11/15

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 BOROUGH OF BOUND BROOK, ET. AL., :
 SOMERSET COUNTY, :
 :
 RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C.* 1:1-18.4 by the petitioner, Glenn Ciripompa, and the Board of Education’s reply thereto. This matter stems from a statement that was placed on the Board’s website following an Appellate Division decision that reinstated the petitioner to his teaching position. The statement expressed the Board’s concern that it was required “to put back in to the classroom a teaching staff member found guilty of utilizing his school district computer and school district email account to engage in conduct of a highly inappropriate nature, including sending and receiving nude photographs and soliciting sexual liaisons and services.”¹ The petitioner seeks an Order declaring that all individuals responsible for the website posting – including various Board members and school personnel –engaged in unbecoming conduct contrary to their individual and collective responsibilities as required under Title 18A of the New Jersey Statutes. The Administrative Law Judge found that the Commissioner’s jurisdiction is limited to matters falling under the school

¹ The full statement was included in the Initial Decision and will not be restated here.

laws and, even if the alleged facts are true, there is no cause of action under the school laws. As a result, the ALJ granted the Board's motion to dismiss the petition for lack of jurisdiction.

In his exceptions, the petitioner maintains that the reasoning outlined in the Initial Decision improperly limits the Commissioner's authority in the context of remedies available to the petitioner. The petitioner emphasizes that the petition does not seek to merely remove the respondents from their positions, but rather seeks broader relief in the form of an Order declaring that the respondents have engaged in unbecoming conduct pursuant to *N.J.S.A.* 18A. Instead of submitting to the Commissioner's primary jurisdiction, the Initial Decision wrongfully suggests that the petitioner seek relief from multiple, non-primary sources. Therefore, the petitioner contends that the Initial Decision should be rejected and the matter should proceed at the OAL.

In reply the Board contends that the arguments raised by the petitioner are essentially the same arguments made in his opposition to the Board's motion to dismiss. Despite the fact that the petitioner alleges that school laws have been violated, the petitioner points to no specific violation of any statute. Additionally, the cases relied upon by the petitioner in his exceptions and before the ALJ are wholly inapposite to the within situation. Under the circumstances, the ALJ correctly held that the petitioner has failed to state a cause of action under the school laws, and the petition of appeal was appropriately dismissed.

Upon review, the Commissioner concurs with the ALJ's determination – for the reasons stated in the Initial Decision – that the petition of appeal must be dismissed for lack of jurisdiction. Under *N.J.S.A.* 18A:6-9, the Commissioner has jurisdiction to hear and decide controversies arising under the school laws. However, that jurisdiction does not extend to all matters involving school personnel. *Bd. of Educ. v. Twp. Council of E. Brunswick*, 48 *N.J.* 94,

102 (1966) (“Where the controversy does not arise under the school laws, it is outside the Commissioner’s jurisdiction even though it may pertain to school personnel”). Furthermore, *N.J.S.A.* 18A:6-9 does not authorize the Commissioner to make declarations without conforming to the requirements contained in the school law statutes. For instance, a potential charge of unbecoming conduct against a tenured employee must be filed by the board of education and proceed under the applicable statutory and regulatory provisions; the Commissioner may not simply declare that an employee has engaged in unbecoming conduct. See, *N.J.S.A.* 18A:6-10 and *N.J.A.C.* 6A:3-5. Likewise, in order to allege a violation of the School Ethics Act against a school board member, a complaint must be filed with the School Ethics Commission in accordance with *N.J.S.A.* 18A:12-29. Finally, the Commissioner is not persuaded that the exceptions submitted by the petitioner dictate a different result, as the arguments advanced therein were considered and fully addressed by the ALJ in the Initial Decision. Accordingly, the Initial Decision is adopted as the final decision in this matter and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 7, 2016

Date of Mailing: November 7, 2016

² This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L.* 2008, *c.* 36.