
NINA GARRETT, ARNEITA HARROD, :
ROSALIE KIRKLAND, WARREN :
MASSEY, DONNITA S. STEELE, :
WILLIAM C. STEELE and NORMAN :
WILLIAMS :
v. :
DOLORES CALLAWAY, STEPHANIE :
DAVIES-KHAN, SCOTT EVANS, :
SOPHIA LaPORTE, ROCHELLE :
SALWAY & PAMELA JONES :
ATLANTIC CITY :
BOARD OF EDUCATION :
ATLANTIC COUNTY :

**BEFORE THE SCHOOL
ETHICS COMMISSION**

Docket No. C22-06

DECISION

O. RUTH THOMAS, EUGENIA A. :
HOLMAN and, BETTY WATSON :
v. :
DOLORES CALLAWAY, STEPHANIE :
DAVIES-KHAN, SCOTT EVANS, :
SOPHIA LaPORTE, ROCHELLE :
SALWAY & PAMELA JONES :
ATLANTIC CITY :
BOARD OF EDUCATION :
ATLANTIC COUNTY :

**BEFORE THE SCHOOL
ETHICS COMMISSION**

Docket No. C25-06

DECISION

PROCEDURAL HISTORY

This matter arises from two complaints filed against Dolores Callaway, Stephanie Davies-Kahn, Scott Evans, Sophia LaPorte, Rochelle Salway and Pamela Jones, all members of the Atlantic City Board of Education (Board). The first complaint, C22-06, was filed on June 19, 2006 by Nina Garrett, Arneita Harrod, Rosalie Kirkland, Warren Massey, Donita S. Steele, William C. Steele and Norman Williams alleging that the respondents violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. The second complaint, C25-06, was filed by O. Ruth Thomas, Eugenia A. Holman and Betty Watson on June 16, 2006, also alleging that the respondents violated the Act. These two complaints were consolidated for a decision because they involve the same allegations regarding the same respondents. All of the complainants specifically allege that respondents violated N.J.S.A. 18A:12-24.1(f) and (h) of the Code of Ethics for School Board Members when they targeted 25 Title 1 Parent Resource Center (PRC) staff and

voted against their summer employment and their employment for the 2006-2007 school year due to political discrimination.

The Commission granted the respondents an extension of time to file an answer for good cause. Through their attorneys, Jeffrey O. Casazza, Esquire, and Chris Meikle, Esquire, the respondents filed an answer wherein they denied that they failed to vote to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer and denied surrendering their independent judgment to special interest or partisan political groups or using the schools for personal gain or for the gain of friends. The respondents also asked the Commission to impose sanctions against the complainants pursuant to N.J.S.A. 18A:12-29(e).

The Commission invited the parties to attend its November 28, 2006 meeting, but did not require that they attend. It reminded the complainants that they had the burden of proving factually any violation of the Code of Ethics for School Board Members. The complainants did not attend the meeting. The respondents Dolores Callaway, Stephanie Davies-Kahn, Scott Evans, Sophia LaPorte and Rochelle Salway attended the meeting with their attorneys Mr. Casazza and Mr. Meikle. These two complaints were consolidated with C19-06, C20-06, C21-06, C23-06, C24-06, C26-06, C29-06¹ and C32-06 for a hearing because they involved the same respondents and similar issues regarding personnel decisions. The complainant in C29-06 and her two witnesses testified before the Commission. At the end of the testimony, the respondents' attorney made a motion to dismiss these two complaints and the above listed complaints. After deliberation, the Commission voted to grant the respondents' motion to dismiss all of the complaints. At its December 19, 2006 meeting, the Commission voted to find that these two complaints and the above listed complaints were not frivolous and adopted this decision.

FACTS

The Commission was able to discern the following facts based on the pleadings and the documents submitted. In considering whether to grant a motion to dismiss, the Commission reviews the facts in the light most favorable to the complainant.

All of the respondents are members of the Board. All of the complainants, except Donnita Steele, had been recommended by the superintendent and been appointed to the PRC in past years. At the June 5, 2006 Board meeting Ms. Steele was recommended to be hired as a cheerleading coach and the other complainants were recommended for appointment to the PRC for the 2006-2007 school year. The respondents highlighted the names of 25 PRC staff members, including the complainants, and voted no for those names that were highlighted. The respondents also voted not to approve Ms. Steele as a cheerleading coach. The respondents did not provide a justification for their actions.

Complainant, Ms. Garrett, has been employed in the District since 1998 and assisted in the start up and organization of the District's PRC, including the opening up of the first PRC. There are now six PRCs in the District. Ms. Garrett helped to develop a

¹ Scott Evans was not included as a respondent in C29-06.

District Wide Parental Involvement Policy that was adopted by the Board in April 2005. Ms. Garrett alleges that there are other recently hired employees who were appointed who have less experience. Ms. Garrett signed a petition to give Shay Steele and George Crouch the opportunity to be placed on the ballot for the April 2006 Board election. She has an amicable working relationship with complainant, William Steele, who is the father of Board member Shay Steele who won a seat in the controversial April 2006 Board election. She also facilitated a “Candidates Night” forum on March 30, 2006 in which the respondents participated as candidates. During the forum, the respondents accused her as the facilitator of being biased in favor of the respondents Shay Steele and Mr. Crouch.

Complainants, Arneita Harrod, Rosalie Kirkland, Warren Massey, Donnita Steele, William C. Steele and Norman Williams are politically aligned with former Mayor Crawford and supported candidates not endorsed by Atlantic City Council President, Craig Callaway. Ms. Harrod served the District for 25 years as a security officer. She came out of retirement to work for the PRC as an aide. Ms. Kirkland has worked for the PRCs for five years. Mr. Massey had a confrontation with Mr. Callaway and Atlantic City Councilman, John Shultz, regarding absentee ballots for the April 2006 Board election. Ms. Steele’s husband ran for the Board in April 2006.

Complainant O. Ruth Thomas is a retired educator who worked in the District for 25 years. She worked for the PRC for four years. Complainant Eugenia A. Holman worked for the PRC for eight years and works with William Steele. Complainant, Betty Wilson, has worked in the PRC for eight years.

ANALYSIS

The Commission notes that, pursuant to N.J.S.A. 18A:12-29, the complainant bears the burden of factually proving any violations of the Code of Ethics for School Board Members. In considering a motion to dismiss, the Commission considers the facts in the light most favorable to the non-moving party.

The complainants allege that the respondents violated N.J.S.A. 18A:12-24.1(f) of the Code of Ethics for School Board Members when they targeted 25 Title 1 Parent Resource Center (PRC) staff and voted against their summer employment and their employment for the 2006-2007 school year due to political discrimination. N.J.S.A. 18A:12-24.1(f) provides:

I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

To prove a violation of N.J.S.A. 18A:12-24.1(f), complainants allege that the respondents surrendered their independent judgment to Atlantic City Council President Craig Callaway when they voted against the appointment of five substitutes to the substitute teacher list. The complainants’ only factual proof to substantiate a violation of

N.J.S.A. 18A:12-24.1(f) is that the respondents highlighted the names of the PRC staff. The Commission can find no factual evidence to connect the highlighted names to the respondents' surrendering of their independent judgment to Atlantic City Council President Craig Callaway. The highlighting of names on a list in a Board agenda absent any other evidence is insufficient to prove a violation of N.J.S.A. 18A:12-24.1(f).

In viewing the facts in the light most favorable to the complainant, the Commission can find no evidence to factually prove that the respondents surrendered their independent judgment to special interest or partisan political groups or used the schools for personal gain or for the gain of friends. Therefore, the Commission grants the respondents' motion to dismiss the complainants' allegation that respondents violated N.J.S.A. 18A:12-24.1(f).

The complainants also allege that the respondents violated N.J.S.A. 18A:12-24.1(h) of the Code of Ethics for School Board Members when they targeted 25 Title 1 Parent Resource Center (PRC) staff and voted against their summer employment and their employment for the 2006-2007 school year due to political discrimination. N.J.S.A. 18A:12-24.1(h) provides:

I will vote to appoint the best qualified personnel available after consideration of the recommendation of the chief school administrator.

To prove a violation of N.J.S.A. 18A:12-24.1(h), the complainants allege that the actions of the respondents were arbitrary and capricious. The complainants also argue that the staff that were approved for the PRC were not as experienced as some of the complainants. N.J.S.A. 18A:12-24.1(h) does not require the Board to accept all recommendations of the chief administrative officer; it only requires that the Board consider the recommendations. See, Fitzpatrick v. Central Regional Board of Education Members, C35-02 (February 25, 2003). The fact that the respondents had highlighted the names shows that the respondents considered the recommendation of the chief administrative officer. The Commission cannot find that the respondents failed to appoint the best qualified personnel based on the information before it.

In viewing the facts in the light most favorable to the complainants, the Commission can find no evidence to factually prove that respondents failed to vote to appoint the best qualified personnel available after consideration of the recommendation of the chief school administrator. Therefore, the Commission grants the respondents' motion to dismiss complainants' allegation that respondents violated N.J.S.A. 18A:12-24.1(h).

DECISION

For the reasons expressed above, the Commission grants the respondents' motion to dismiss the complaint.

REQUEST FOR SANCTIONS

At its December 19, 2006 meeting, the Commission considered the respondents' request that the Commission find that the complaint was frivolous and impose sanctions pursuant to N.J.S.A. 18A:12-29(e). In order to find that a complaint, counterclaim, cross-claim or defense of the nonprevailing party was frivolous, the Commission must find on the basis of the pleadings, discovery, or the evidence presented that either:

1) The complaint...was commenced, used or continued in bad faith, solely for the purpose of harassment, delay or malicious injury; or

2) The nonprevailing party knew, or should have known, that the complaint...was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law. [N.J.S.A. 2A:15-59.1]

The respondents do not provide any specific argument as to why the Commission should find that these two complaints are frivolous. The Commission can find no evidence to show that the complainants filed the complaint in bad faith solely for the purpose of harassment, delay or malicious injury. The Commission also has no information to suggest that the complainants should have known that the complaint was without any reasonable basis in law or equity or that it could not be supported by a good faith argument for an extension, modification or reversal of existing law. For the foregoing reasons, the Commission finds that these two complaints are not frivolous and denies the respondents' request for sanctions against the complainants.

This decision is a final decision of an administrative agency. Therefore, it is appealable only to the Superior Court--Appellate Division. See, New Jersey Court Rule 2:2-3(a).

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C22-06 & C25-06

Whereas, the School Ethics Commission has considered the pleadings and the response filed by the parties and the documents submitted in support thereof; and

Whereas, the Commission granted the respondent’s motion to dismiss the complaint; and

Whereas, the Commission has reviewed the proposed decision of its staff dismissing the complaint; and

Whereas, the Commission agrees with the proposed decision;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision granting the respondent’s motion to dismiss as its final decision in this matter and directs its staff to notify all parties to this action of the Commission’s decision herein.

Paul C. Garbarini, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on December 19, 2006.*

Lisa James-Beavers
Executive Director

PCG/LJB/MET/ethics/decisions/C22 & 25-06

*Commissioners Rosalind Frisch and Maragarita Roig voted against granting the motion to dismiss.