

FACTS

The Commission was able to discern the following facts based on the pleadings, testimony and the documents submitted.

The respondent is Principal of Whitney E. Houston Academy in the District and he is a member of the PTA. On October 24, 2005, Mrs. Hayes, Executive Director of the PTA, called the Police claiming that the complainant was harassing her. The complainant was in the nurse's office on that day and the respondent verified to the Police that Mrs. Hayes was a PTA member. At the PTA meeting on October 25, 2005 Mrs. Allen, the Vice-President of the PTA summoned the Police to have the complainant removed from the PTA meeting. The complainant certifies that Mr. Pinion was there that evening. The respondent certifies that Mr. Harris was there at the meeting. The police escorted the complainant out of the meeting.

ANALYSIS

The complainant alleges that the respondent violated N.J.S.A. 18A:12-24(a), (b) and (c) in connection with activities of the PTA. N.J.S.A. 18A:12-24(a) provides:

No school official or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest;

To find a violation of N.J.S.A. 18A:12-24(a), the Commission would have to find that the respondent's membership in the PTA was in substantial conflict with the proper discharge of his duties in the public interest. Complainant contends that the respondent violated N.J.S.A. 18A:12-24(a) when, at the October 25, 2005 meeting of the PTA, he allowed someone to impersonate him to the Police. The Commission can find no evidence to prove that the respondent allowed someone to impersonate him to the Police. Even if proven, the Commission cannot find that N.J.S.A. 18A:12-24(a) would apply to such an activity. Therefore, the Commission finds no probable cause to credit the allegation that the respondent violated N.J.S.A. 18A:12-24(a).

N.J.S.A. 18A:12-24(b) provides:

No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others;

Complainant contends that the respondent violated N.J.S.A. 18A:12-24(b) when he filed false reports on behalf of the PTA. The Commission is satisfied with the respondent's answering certification that he did not file false reports on behalf of the PTA. The complainant also contends that the respondent violated N.J.S.A. 18A:12-24(b) when, on October 24, 2005, he directed Mrs. Hayes, an executive member of the PTA, to

summon the police and present herself as an employee of the District. Again, the Commission is satisfied with the respondent's answering certification that he did not direct Mrs. Hayes to call the Police and that he identified Mrs. Hayes to the Police as a parent and executive member of the PTA. The complainant further contends that the respondent violated N.J.S.A. 18A:12-24(b) when, at the October 25, 2005 PTA meeting, the complainant was denied attendance at the meeting and the respondent did not interfere when the PTA summoned the Police who discussed this matter with a custodian supervisor and escorted the complainant out of the building. The Commission notes that this was a meeting of the PTA and the respondent, as a member of the PTA, did not interfere in what occurred at that meeting. Since the Commission finds that this was a PTA meeting, it cannot find that the respondent used his position to secure any unwarranted privilege or advantage for himself or the PTA, of which he is a member. Therefore, the Commission finds no probable cause to credit the allegation that the respondent violated N.J.S.A. 18A:12-24(b).

N.J.S.A. 18A:12-24(c) provides:

No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family;

The complainant contends that the respondent violated N.J.S.A. 18A:12-24(c) when he filed an internal critical incident report on December 1, 2005 regarding the October 25, 2005 incident. Since the PTA is not a business organization in which the respondent has an "interest" as defined in N.J.S.A. 18A:12-23, the Commission must determine if the respondent had a personal involvement with the PTA such that the filing of the critical incident report two months after the occurrence of the incident created some benefit to him. The Commission finds that there was no benefit created for the respondent by his filing of the critical incident report two months after the occurrence of the incident. Therefore the Commission finds no probable cause to credit the allegation that the respondent violated N.J.S.A. 18A:12-24(c).

The Commission notes that the complainant has filed three complaints in one year regarding this respondent and his membership in the PTA. In all three complaints, the Commission has found no probable cause to credit the allegations that the respondent violated the Act. The Commission believes that this matter has been thoroughly reviewed by the Commission and cautions the complainant that her concerns are not able to be resolved by the School Ethics Commission.

DECISION

For the reasons expressed above, the Commission finds no probable cause to credit the allegations that the respondent violated the School Ethics Act and dismisses the allegations against him.

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 – C54-06 & C55-06

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 finds no probable cause to credit the allegations that the respondents violated N.J.S.A. 18A:12-21 et seq.; 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 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 April 24, 2007.*

Lisa James-Beavers
Executive Director

*Commission member Margarita Roig voted no on this decision.

PCG/LJB/MET/ethics/decisions/C54 & 55-06