
AMY ANTELIS	:	BEFORE THE SCHOOL ETHICS COMMISSION
V.	:	
MICHELLE ARMINIO,	:	EEC 10983-15N
MONROE TOWNSHIP	:	Agency Docket No. C06-15
BOARD OF EDUCATION	:	
MIDDLESEX COUNTY	:	DECISION—FAILURE TO APPEAR
	:	

PROCEDURAL HISTORY

This matter arises from a Complaint filed on January 20, 2015 by Amy Antelis, alleging that Michelle Arminio, a member of the Monroe Township Board of Education (Board) violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. By notices dated February 4, 2015 and February 19, 2015, the Complainant was informed that the Complaint and the Amended Complaint, respectively, were deficient and, therefore, not accepted. Each time, the Complainant was accorded an additional ten days to file. The due date for filing a 2nd Amended Complaint was March 4, 2015.

On March 16, 2015, the Complainant submitted a 2nd Amended Complaint, without the appropriate Certification of Oath or notarized signature, rendering the Complaint again deficient. During a telephone conversation on March 26, 2015, memorialized by letter of same date, this Office discussed these deficiencies, and the Complainant advised that she would submit a perfected Complaint within several days but no later than April 2, 2015.

On March 31, 2015, the Complainant submitted a 3rd Amended Complaint, fully curing all defects. Therein, the Complainant alleged that the Respondent violated N.J.S.A. 18A:12-24.1(d), (e), and (i) of the Code of Ethics for School Board Members.

The Respondent submitted a deficient Answer on April 27, 2015, which was corrected with the filing of an Amended Answer on May 21, 2015. At its meeting on May 26, 2015, the Commission voted to transmit this matter to the Office of Administrative Law (OAL) for a hearing. N.J.A.C. 6A:28-10.8(a). Thereafter, this matter was scheduled for telephone prehearing conference before an Administrative Law Judge (ALJ) on October 5, 2015. However, when the Complainant failed to appear for the prehearing, the case was returned to the Commission for disposition. By notice of October 13, 2015, the OAL advised the Complainant of her nonappearance and granted her 13 days to submit to the Commission an explanation for her failure to appear, due on October 26, 2015. On October 26, 2015, the Complainant submitted her explanation for her failure to appear, at which time the record closed. After review of Complainant's submission at its meetings on October 27, 2015 and November 24, 2015, 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 October 14, 2015, the ALJ returned the case to the Commission, noting the Complainant's nonappearance for a scheduled telephone prehearing conference on October 5, 2015 and directing that if the Complainant still wanted a hearing, she must provide an explanation to the Commission for her nonappearance, in writing, within 13 days of the notice, with copies of any such explanation to all other parties. In her response to the Commission on October 26, 2015, the Complainant explained that she never received the notification of the telephone prehearing conference and that the last communication she received from the OAL was the Notice of Filing dated July 27, 2015.

In consideration of this explanation, the Commission reviewed the record and established that Complainant's current address was listed on all notices sent to her by this Commission and the OAL, including the Notice of Telephone Prehearing Conference and Notice of Failure to Appear, the latter of which the Complainant attached to her explanation. Moreover, there was no evidence of returned mail in the file in support of Complainant's non receipt of the notice. Finally, the Commission recognizes that the Complainant did not state that she made any attempt to contact the OAL from receipt of the Notice of Filing to inquire as to the status of her case or if the matter had been scheduled. Consequently, the Commission dismisses this Complaint in its entirety and will take no further action in this matter.

DECISION

For the reasons set forth above, the Commission finds that the Complainant's unsupported explanation is insufficient to warrant the re-transmittal of this matter to the OAL for hearing. Accordingly, 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: November 25, 2015

Resolution Adopting Decision – C06-15

Whereas, at its meeting on May 26, 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 telephone prehearing conference; 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 her failure to appear; and

Whereas, pursuant to N.J.A.C. 1:1-14.4(a), on October 26, 2015, the Complainant filed an explanation for her failure to appear; and

Whereas, at its meeting on October 26, 2015, the Commission reviewed the record and the explanation for the non-appearance; and

Whereas, at its meeting on November 24, 2015 the Commission voted to dismiss the matter in its entirety; 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 November 24, 2015.

Joanne M. Restivo
Acting Executive Director