

AGENCY DKT. NO. 559-12/98

IN THE MATTER OF KATHERINE MALLETTE, :

JACKSON TOWNSHIP BOARD OF : COMMISSIONER OF EDUCATION

EDUCATION, OCEAN COUNTY. : DECISION

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The record of this matter and the decision of the School Ethics Commission (“Commission”) have been reviewed. Comments were filed by Complainants, as was a reply thereto by respondent. Initially, it must be emphasized that pursuant to *N.J.S.A. 18A:12-29(c)*, the determination of the Commission as to violation of the Act is **not reviewable by the Commissioner** herein. Only the School Ethics 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 School Ethics Commission. Therefore, this decision is restricted solely to a review of the recommended penalty and its implementation.

Complainant Chuck Murphy submitted comments on behalf of himself and the other Complainants in this matter. Complainants strongly urge that the Commissioner impose a stronger penalty because they believe that the suggested sanction of reprimand is insufficient to adequately correct respondent’s behavior. They also contend, among other things, that the lightness of the recommended penalty is inconsistent with the meaningful efforts needed to uphold the law. Respondent Mallette’s response to Complainants’ comments expresses deep disappointment that Mr. Murphy continues to argue his case, notwithstanding the fact that all but one of the charges filed against Mr. Chisholm, Mr. Koch and herself were dismissed. She further indicates that until she received a copy of Complainants’ comments on January 4, 1999, she would not have voiced her feelings to the Commissioner regarding the School Ethics

Commission's decision recommending that she be issued a reprimand for the violation which the Commission found because until that point she had determined to accept the outcome. Respondent's comments essentially reiterate or recast the clarification of the facts she previously put forth to the Commission relative to the two meetings wherein it was found she had participated in discussions in which her brother-in-law's property was discussed. Respondent's comments also provide additional clarification on several other points.

Upon a thorough review of the record, the Commissioner determines to accept the Commission's recommendation that reprimand is the appropriate penalty in this matter for the reasons expressed in the Commission's decision, wherein it was found that respondent violated *N.J.S.A. 18A:12-24(c)* when she participated in discussions in which her brother-in-law's property was discussed, but that she did not attempt to persuade the Jackson Township Board of Education to purchase that property during the discussions. In so ruling, the Commissioner notes that the Commission considered and addressed all aggravating and mitigating factors raised by the parties in reaching its penalty determination, and that the Commission was in the optimum position to make such determinations in that it had the opportunity to fully investigate the facts presented. Therefore, its recommended penalty in this matter will not be disturbed absent a compelling basis to do so.

Accordingly, IT IS HEREBY ORDERED that Katherine Mallette be reprimanded as a school official found to have violated the School Ethics Act.*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

* This decision, as the Commissioner's final determination 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. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.

FEBRUARY 9, 1999