

91-00 SEC

IN THE MATTER OF BRUCE WHITE, :  
EWING TOWNSHIP BOARD OF : COMMISSIONER OF EDUCATION  
EDUCATION, MERCER COUNTY. : DECISION

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SYNOPSIS

Relying on Advisory Opinions A10-93(b) and A07-94 and its prior decision entitled *In the Matter of Frank Pannucci*, the School Ethics Commission concluded that respondent violated N.J.S.A. 18A:12-24(c) of the School Ethics Act when, as a board member, he negotiated and voted on a contract with a local bargaining unit where his wife was a member of the same statewide general union. The Commission recommended that the Commissioner impose a penalty of removal from the Board.

During the pendency of the administrative proceedings, the State Board of Education reversed the Commission's decision in *Pannucci*. The Commissioner found that, given the change in law that had occurred during the ongoing proceedings in this matter, he could not adequately assess the Commission's recommended penalty without having the benefit of that body's review of its decision in light of the State Board's ruling in *Pannucci*. The Commissioner, therefore, returned the matter to the Commission so that it could determine what effect, if any, the State Board's reversal of prior decisional law might have on its finding of violation and recommended penalty.

March 15, 2000

AGENCY DKT NO. 45-2/00

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The record in this matter and the decision of the School Ethics Commission (Commission) have been reviewed. Complainant Edward Vickner, Jr.<sup>1</sup>, and respondent submitted comments with respect to the Commission's recommended penalty.

In his submission, Complainant reiterates the arguments in his complaint and urges the Commissioner to impose a penalty of removal from the board of education as recommended by the Commission.

Respondent argues that this action is the result of a vendetta against him by complainants and that removing him from the board of education is too severe a penalty because he acted without specific knowledge that he was in violation of the School Ethics Act (Ethics Act). Respondent further argues that the Commission relied on *In the Matter of Frank Pannucci*, 97 N.J.A.R. 2d (EDU) 339, which was reversed by the State Board of Education on March 1, 2000 subsequent to the Commission's decision in this matter, and that, based on the State Board's decision, there should be no finding of violation of the Ethics Act. However, if such a finding is made, respondent submits that the record in this matter, as well as previous

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<sup>1</sup> Complainant Frank Ferrante did not submit comments.

decisions by the Commission and the Commissioner, and consideration of his 13 years of loyal service to the board, dictate that a reprimand is the appropriate penalty in this instance.

(Respondent's Comments at 5-7)

After a thorough review of the record, and with due consideration of the arguments advanced by the parties with respect to the sanction to be imposed, the Commissioner finds that, given the change in law that has occurred during this ongoing administrative proceeding, he cannot adequately assess the Commission's recommended penalty without having the benefit of that body's review of its decision in light of the State Board's ruling in *Pannucci, supra*. Accordingly, this matter is returned to the Commission so that it may determine what effect, if any, the State Board's reversal of prior decisional law may have on its finding of violation and recommended penalty.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

Date of Decision: March 15, 2000