
IN THE MATTER

OF

**VINCE ORDINI,
EWING TWP. BOARD OF EDUCATION :
MERCER COUNTY**

**:
: BEFORE THE
: SCHOOL ETHICS COMMISSION**

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: Docket No.: C11-02/C20-02**

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: DECISION ON VIOLATION
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PROCEDURAL HISTORY

The above-captioned matter arises from a complaint that was filed on May 17, 2002 by School Ethics Commission member Robert Bender. Therein, he alleged that that Ewing Township Board of Education member, Vince Ordini, violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. when he sought an advisory opinion from the Commission misleading the Commission into believing that the situation that you posed was yours when it was actually the situation of another board member. The above matter also arises from a complaint filed by Edward Vickner, C20-02, on June 17, 2002 alleging that Mr. Ordini violated N.J.S.A. 18A:12-24(b) and (f) of the Act by fraudulently obtaining Advisory Opinion A15-01, dated November 1, 2001. Dr. Vickner also made other allegations in C20-02 that Mr. Ordini violated N.J.S.A. 18A:12-24(b) and (c) in connection with conduct unrelated to the above-stated allegation, but these allegations were dismissed in an opinion dated September 24, 2002.

Mr. Ordini stated in his answer that he never intended to mislead or misdirect the Commission, but wanted to receive information that could have a direct impact on his future boardsmanship. He indicated that he had been told that the described activity would not cause a violation of the Act and was seeking to clarify what he believed was incorrect information.

The parties were invited to appear and present testimony at the Commission's meeting of July 23, 2002. All parties appeared, Mr. Ordini with his wife. Each presented testimony to aid in the Commission's investigation.

At its meeting of July 23, 2002, the School Ethics Commission found probable cause to credit the allegations in complaints C11-02 and C20-02 that Mr. Ordini violated the School Ethics Act when he sought an advisory opinion from the School Ethics Commission based on facts that did not apply to his situation.¹ This advisory opinion was Advisory Opinion A15-01, (November 1, 2001) which was not made public. The Commission found the material facts to be undisputed regarding the conduct on which it found probable cause and invited Mr. Ordini to submit a written statement within 30 days setting forth why he should not be found in violation of N.J.S.A. 18A:12-31, N.J.A.C.

¹ Commissioner Robert Bender did not participate in the deliberations or the rendering of the probable cause decision or the final decision in this matter.

6A:28-1.7(b) of the Administrative Code and N.J.S.A. 18A:12-24(b) of the Act. The Commission did not find probable cause to credit the allegation that his conduct violated N.J.S.A. 18A:12-24(f) as there was no information to show that such conduct could result in financial gain.

On September 18, 2002, Mr. Ordini submitted a timely response to the Commission's probable cause decision and asserted that, while he disagreed with the Commission's findings, he understands how the Commission could interpret his actions in the manner in which it did. He reiterated that he never intended to mislead or misdirect the Commission, but sought to receive information that could have a direct impact on his future boardsmanship. In response to the Commission's request for a comment on the sanction, Mr. Ordini recommended that the violation be recognized as only technical in nature and therefore meriting only the lowest level of reprimand. He apologized for the time this matter has taken and any inconvenience caused by his misunderstanding of the School Ethics Act.

The Commission now finds that Mr. Ordini violated N.J.S.A. 18A:12-31, in conjunction with N.J.A.C. 6A:28-1.7(b) and N.J.S.A. 18A:12-24(b) of the School Ethics Act and recommends that the Commissioner of Education impose a penalty of removal from his position for this violation.

FINDINGS OF FACT

Based on the pleadings, the documents submitted and the testimony presented, the Commission found the following facts to be undisputed. At all times relevant to the allegations in this Complaint, Mr. Ordini was a member of the Ewing Township Board of Education (Board). On September 28, 2001, as a member of the Board, Mr. Ordini requested an advisory opinion from the School Ethics Commission on two issues, only one of which is relevant to the present complaint. He set forth the following information and question:

As I mentioned earlier, my wife is a certified teacher. The Ewing Middle School utilizes a Team Concept for instruction. A former Board member has advised me that during the budget process for next year, if my wife were to accept the position of team leader within the Ewing Middle School, (a position that receives a stipend), I, as a board member, would be permitted to debate with other board members, in public or private session, in an attempt to acquire a significant increase in the stipend received by my wife and the other members of her team. I am currently under the impression that since my debating could result in a direct or perceived benefit to my wife's salary, I would be in violation [sic] the School Ethics Act if I entered into such debates. The former board member insists that this is not the case and I should be able to actively debate for a larger stipend for the group. My question is...am I permitted to enter into debates, with the other board members, to influence them to raise the group's stipend? If you find that I am permitted to argue on the team's behalf, then

are there conditions in which I would be in violation of the NJ School Ethics Act and therefore should avoid?

Mr. Ordini's spouse was then and still is a certified teacher. However, she had never taught in the Ewing Township School District. She had worked as a substitute teacher, a manager in the school kitchen and a teachers' aide in the Ewing School District, but never a teacher. She has been a teacher in the City of Trenton schools for almost four years. Since working in the Trenton School District, she has had no connection with the Ewing School District.

At the time that Mr. Ordini sought the advisory opinion, another board member, Edward Vickner, had a wife who taught in the Ewing Township School District and served as a team leader at the time. Dr. Vickner's wife was a teacher at the Fisher Middle School in the Ewing Township School District. She held the position of team leader during the 2000-2001 school year, for which she received a stipend. At the Board's February 24, 2001 public budget meeting, Dr. Vickner had commented that the stipend paid to team leaders was low. The team leader is chosen by an annual election by the team.

The Commission provided Mr. Ordini with Advisory Opinion A15-01 on November 1, 2001 in response to his request. It advised that the proposed conduct would be in violation of the Act. The opinion sets forth that Mr. Ordini's spouse is a teacher in the Ewing School District and that she is a team leader. Mr. Ordini never indicated to the Commission that it was mistaken in its recitation of the facts. Mr. Ordini subsequently referred to Advisory Opinion A15-01 in support of his complaint against Dr. Vickner, C36-01, for commenting on the team leader stipend when his wife was a team leader.

ANALYSIS

The Commission found probable cause to credit the allegations that Mr. Ordini violated N.J.S.A. 18A:12-31 in conjunction with N.J.A.C. 6A:28-1.7(b) and N.J.S.A. 18A:12-24(b). N.J.S.A. 18A:12-31 and the code section provide respectively:

A school official may request and obtain from the commission an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the provisions of this act. [N.J.S.A. 18A:12-31]

Requests for advisory opinions must clearly set forth in detail the specific conduct or activity the school official seeks to undertake and the exact role he or she will play in that activity or conduct. [N.J.A.C. 6A:28-1.7(b)]

After considering the facts, which were not disputed, and Mr. Ordini's written submission in response to the finding of probable cause, the Commission can only reaffirm its determination in its probable cause finding that Mr. Ordini's primary intent in seeking the advisory opinion was to obtain the Commission's opinion on whether Dr. Vickner had acted improperly when he commented on the team leader stipend, not to seek guidance on

his own future boardsmanship. The Commission believes that there is ample information to show that Mr. Ordini phrased Dr. Vickner's circumstances to appear as his own because he knew that he could not request an advisory opinion on the basis of someone else's conduct. Mr. Ordini's written submission in response to the probable cause finding did nothing to dispel the Commission's determination.

Without specifically setting forth that his spouse teaches in Ewing, Mr. Ordini worded the advisory opinion request to give the Commission the impression that she taught in Ewing at the time. Again, as set forth in the probable cause finding, the Commission believes that this is shown by his phrasing of the question, "...am I permitted to enter into debates, with the other board members, to influence them to raise the group's stipend?" Because Mr. Ordini's wife did not teach in the Ewing School District at that time, and thus, was not going to become a team leader in the Ewing School District, the question Mr. Ordini posed was not actual "conduct or activity the school official seeks to undertake." In contrast, the circumstances that Mr. Ordini set forth were exactly those of Dr. Vickner. The Commission finds it implausible that it was mere coincidence that Dr. Vickner was facing the exact situation described. Further, Mr. Ordini received Advisory Opinion A15-01 on November 1, 2001 and filed the complaint against Dr. Vickner on December 17, 2001. With an advisory opinion stating that such conduct would be in violation of the Act, Mr. Ordini could be confident that he would be able to prove that Dr. Vickner violated the Act. N.J.A.C. 6A:28-1.7(b) and N.J.S.A. 18A:12-31 together require that a school official set forth specific conduct activity that he plans to undertake. The requirement that a school official set forth truthful information is implied and crucial to the Commission's ability to render appropriate advice. Therefore, the Commission concludes that Mr. Ordini did not set forth conduct or activity that he sought to undertake when he requested Advisory Opinion A15-01 in violation of N.J.S.A. 18A:12-31 and N.J.A.C. 6A:28-1.7(b).

The Commission also found probable cause to credit the allegation in C20-02, that Mr. Ordini's conduct in seeking Advisory Opinion A15-01 violated N.J.S.A. 18A:12-24(b). This provision set forth:

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; and

The Commission finds that Mr. Ordini used his position to seek an advisory opinion that would ultimately set up the finding of a violation of the Act against another board member. He would not have been able to obtain an advisory opinion if he were not a board member when he made the request. The Commission therefore concludes that Mr. Ordini used his position to secure unwarranted privileges and advantages for himself in violation N.J.S.A. 18A:12-24(b) when he sought Advisory Opinion A15-01.

CONCLUSIONS OF LAW

For the foregoing reasons, the Commission concludes that respondent Vince Ordini did not set forth conduct or activity that he sought to undertake when he requested Advisory Opinion A15-01 in violation of N.J.S.A. 18A:12-31 and N.J.A.C. 6A:28-1.7(b) and used his official position to secure unwarranted privileges, advantages for himself in violation of N.J.S.A. 18A:12-24(b), when he sought Advisory Opinion A15-01.

PENALTY

Although Mr. Ordini was conciliatory in his written submission in response to the Commission's probable cause finding, he was very different in his appearance before the Commission. He was very disparaging of Commissioner Robert Bender and insulting to the Commission in his testimony. When commenting on the allegation in complaint C11-02 that his request for an advisory opinion misled the Commission, Mr. Ordini said that, "Implying that the Commission could be so easily misled is insulting to the other Commission members and their intelligence." He went on to accuse Mr. Bender of being friendly and possibly in collusion with Dr. Vickner and using his power as a member of the Commission to seek favors for Dr. Vickner. Mr. Ordini further accused Mr. Bender of being untruthful and voiced concern about a possibility that Mr. Bender shared executive session information with Dr. Vickner. He stated, "I do not believe that Mr. Bender should be representing Dr. Vickner's interests." The Commission finds that Mr. Ordini could have defended himself on the merits of the complaint without resorting to the accusations and disparaging remarks.

Further, when Mr. Ordini was asked about his failure to bring to the Commission's attention, after receiving Advisory Opinion A15-01, that his spouse did not work for the Ewing Township school District as was stated in the opinion, Mr. Ordini stated, "...the Commission has made incorrect assumptions before and I did not want to bring yet another error to your attention. The Commission found this remark to be an unacceptable response to a valid question and an affront to the Commission.

The Commission finds that Mr. Ordini's conduct in seeking an advisory opinion setting forth the situation of another board member rather than his own, along with his conduct before the Commission warrant the highest penalty available under the School Ethics Act. Rather than finding the violation as merely "technical", as Mr. Ordini recommends, the Commission finds his violation to go the very purpose of the School Ethics Act, to ensure that board members avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated. N.J.S.A. 18A:12-22(a). Misleading the Commission as a school official seeking an advisory opinion is conduct that most certainly violates the public trust. Therefore, the Commission recommends that the Commissioner of Education remove Mr. Ordini from the Ewing Township Board of Education.

This decision, having been adopted by the Commission, shall now be transmitted to the Commissioner of Education for action on the Commission's recommendation for sanction only, pursuant to N.J.S.A. 18A:12-29. Within thirteen (13) days from the date on which the Commission's decision was mailed to the parties, the respondent may file written comments on the recommended sanction with the Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, NJ 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the School Ethics Commission and all other parties.

Paul C. Garbarini, Chairperson

Resolution Adopting Decision – C11-02/C20-02

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

Whereas, the Commission found probable cause to credit the allegations that Mr. Ordini violated N.J.S.A. 18A:12-24(b) of the School Ethics Act; and

Whereas, the Commission reviewed the written submission of Mr. Ordini in response to the finding of probable cause; and

Whereas, the Commission now finds that respondent violated the School Ethics Act and believes that removal would be the appropriate penalty for the reasons set forth;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision referenced as its decision in this matter finding Vince Ordini in violation of the Act and recommends that the Commissioner of Education impose a penalty of removal.

Paul C. Garbarini, Chairperson

I hereby certify that the School Ethics Commission adopted this decision at its public meeting on October 29, 2002.*

Lisa James-Beavers
Executive Director

*Commissioner Robert Bender abstained from all deliberations and votes on this decision.