

FRANCES KEARNS	:	
V.	:	BEFORE THE SCHOOL
	:	ETHICS COMMISSION
	:	
	:	Docket No.: C18-01A
DAVID ANTHONY,	:	
<i>HOBOKEN BOARD OF EDUCATION</i>	:	
<i>HUDSON COUNTY</i>	:	DECISION
	:	

PROCEDURAL HISTORY

This matter arises from a complaint that the President of the Hoboken Board of Education, David Anthony, violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. when he allegedly disseminated campaign literature using school district mailing labels containing student names, identification numbers and homeroom numbers. Complainant claims that Mr. Anthony misused public funds and confidential student information.

In his answer, Mr. Anthony asserts that he did not release any student information for campaign purposes and denies that he violated the Act. Mr. Anthony claimed that although he was the campaign manager for mayoral candidate Anthony Russo, he was not responsible for any mail distributions. Mr. Anthony further asserted that he had no knowledge that student labels were being used in connection with the political campaign and did not see any materials that were released.

The Commission invited the parties to attend the Commission’s meeting on September 25, 2001, to present witnesses and testimony to aid in the Commission’s investigation. Respondent appeared with counsel Karen Murray, Esq. The Commission also heard testimony from Michele Russo, Board member; Patrick Gagliardi, Superintendent of Schools; and Carmella Mezzina, Secretary to the Superintendent. Complainant did not appear.

During its public meeting of September 25, 2001, the Commission tabled the matter. At its October 23, 2001 meeting, the Commission voted to find no probable cause to credit the allegation that Mr. Anthony violated the Act. The Commission directed its staff to prepare a decision for adoption at the next meeting. The Commission adopted this decision at its meeting on November 27, 2001.

FACTS

The Commission was able to discern the following facts on the basis of the pleadings, documents submitted, testimony and its investigation.

David Anthony is the President of the Hoboken Board of Education. Mr. Anthony managed the mayoral campaign of Anthony Russo, whose wife, Michele Russo was also a member of the Board at the time. During the week of April 23, 2001, Ms. Russo contacted the Superintendent's office and requested mailing labels with student names and addresses. Board members routinely requested student information from the Superintendent's office and the Superintendent's staff immediately provided the requested documentation. However, the labels that were provided for Ms. Russo contained additional information including student identification numbers and homeroom numbers. The requested labels were then affixed to postcards containing campaign literature in support of Mr. Russo and mailed.

At the Commissions meeting on September 25, 2001 Ms. Russo testified that Mr. Anthony had no first hand knowledge of her request for the aforementioned labels nor was he aware of their content or the purpose for which they were to be used. Ms. Russo further testified that Mr. Anthony's position as campaign manager did not require him to be notified of or responsible for campaign mail distributions. Mr. Anthony apparently found out about the mailing labels being affixed to campaign literature when he was told by Superintendent Patrick Gagliardi. He then immediately instructed campaign workers not to send out postcards with labels from schools and to destroy any labels or lists containing student names and information.

On May 21, 2001, the present complaint was filed with the School Ethics Commission alleging that Mr. Anthony was in violation of the Act for appropriating confidential student information for political purposes and misusing public funds.

ANALYSIS

Complainant did not allege a violation of any specific provision of the School Ethics Act. However, N.J.S.A. 18A:12-24(b) is pertinent here. It 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.

If a Board president used his position to acquire and/or disseminate student information for the political campaign of a mayoral candidate, he could be considered to be using his position to secure unwarranted privileges or advantages for himself or others. However, in the present case the facts do not indicate that Mr. Anthony took such action.

There are insufficient facts to demonstrate that Mr. used or disseminated student information for political purposes that would give rise to a finding of a violation under N.J.S.A. 18A:12-24(b). Although Mr. Anthony was the manager of Mr. Russo's mayoral campaign, there are no facts to show that he knew the content of the labels or that student

labels were requested. Further, Ms. Russo testified that Mr. Anthony's position as campaign manager did not require him to send out campaign mailings or have knowledge of them.

Therefore, the Commission finds no probable cause to credit the allegation that Mr. Anthony violated N.J.S.A. 18A:12-24(b) and dismisses the charge against him.

DECISION

For the foregoing reasons, the Commission finds no probable cause that Mr. Anthony violated the School Ethics Act and dismisses the complaint against him.

This decision is a final decision of an administrative agency. Therefore, it is appealable only to the Superior Court--Appellate Division.

Robert W. Bender
Acting Chairperson

Resolution Adopting Decision – C18-01A

Whereas, the School Ethics Commission has considered the pleadings filed by the parties, the documents submitted in support thereof and the information obtained from its investigation; and

Whereas, at its meeting of October 23, 2001, the Commission found no probable cause to credit the allegations that Respondent violated the School Ethics Act N.J.S.A. 18A:12-21 et seq. and therefore dismissed the charges against him; and

Whereas, the Commission requested that its staff prepare a decision consistent with the aforementioned conclusion; and

Whereas, the Commission has reviewed the draft decision and agrees with the decision;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision referenced as its decision in this matter and directs its staff to notify all parties to this action of the Commission's decision herein.

Robert W. Bender, Acting Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its public meeting on November 27, 2001. Note: Paul C. Garbarini abstained from this decision.

Lisa James-Beavers
Executive Director