

RICHARD M. SOOY, JR., D.P.M	:	
V.	:	BEFORE THE SCHOOL ETHICS COMMISSION
	:	
	:	Docket No.: C24-01
ROBERT A. PEDDLE, Ed.D. and JAMES CARPENTER, PENNSVILLE BOARD OF EDUCATION, SALEM COUNTY	:	DECISION
	:	

PROCEDURAL HISTORY

This matter arises from a complaint that Pennsville School District (District) Superintendent Dr. Robert Peddle and Pennsville Board of Education (Board) member James Carpenter violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq.¹ Specifically, they are alleged to have violated the Act when they used the District's e-mail system to endorsed and/or solicit the endorsement of certain Board candidates. Specifically, Dr. Sooy alleged that Dr. Peddle and Mr. Carpenter violated N.J.S.A. 18A:12-24(a) – (g).²

In his answer, Dr. Peddle asserted that the Pennsville Education Association (PEA) transmitted the aforementioned e-mail and was permitted to use the interschool mail system for association business pursuant to its contractual agreement with the Board.³ Dr. Peddle claimed that he had no involvement in the matter and denied having violated any provision of the Act.

Mr. Carpenter's response also indicated that the e-mail was distributed at the direction of the PEA and that he did not participate in circulating them. Mr. Carpenter further claimed that he was not guilty of violating the Act.

Dr. Peddle and Mr. Carpenter counterclaimed that the accusations lodged by Dr. Sooy were frivolous.

The Commission invited the parties to attend the Commission's meeting on August 28, 2001, to present witnesses and testimony to aid in the Commission's investigation. All parties appeared.

¹ Complainant initially named three additional people who were not school officials and therefore the complaint was dismissed against them.

² Complainant also alleges violations of additional statutory provisions N.J.S.A. 18A:14-81 and 18A:42-4, which are not part of the School Ethics Act, and are therefore not subject to Commission review.

³ See, PEA policy, article 4, H and K.

During its public meeting of August 28, 2001, the Commission voted to find no probable cause to credit the allegations in the complaint. It also determined that the complaint was not frivolous. The Commission directed its staff to prepare a decision for adoption at the next meeting. The Commission adopted this decision at its meeting on September 25, 2001.

FACTS

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

Dr. Robert Peddle is the Superintendent of the Pennsville School District. Mr. James Carpenter is a Board member. The Pennsville Board of Education entered into a contractual agreement with the PEA which permitted the PEA to conduct association business via the District's e-mail system. Pursuant to its contract with the Board, the PEA used the District's e-mail system to promote and endorse candidates for election to the Board. The contract did not require that Dr. Peddle be copied on interoffice mailings distributed by the PEA.

None of the PEA e-mail regarding the endorsement of candidates was addressed to Dr. Peddle or Mr. Carpenter and neither party participated in the distribution of the stated e-mail. Further, Dr. Peddle had no contractual right to be notified about the e-mail and had no knowledge of the e-mail's existence until he received the complaint commencing this action. Dr. Peddle did, however, personally encourage various individuals, including, Dr. Sooy, to run for election to the Board.

ANALYSIS

Complainant urges the Commission to find that Dr. Peddle and Mr. Carpenter violated N.J.S.A. 18A:12-24(a) – (g). The Commission did not find N.J.S.A. 18A:12-24(a), (c), (d), (e), (f) or (g) to be applicable to the present action and therefore, found no probable cause that Dr. Peddle or Mr. Carpenter violated these subsections. However, N.J.S.A. 18A:12-24 (b) is pertinent to this matter. 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 superintendent endorsed or solicited endorsement of candidates for the board by using his district's e-mail, he could be considered to be using his position to secure unwarranted privileges or advantages for others. In addition, since according to N.J.S.A. 18A:17-15, local school boards in New Jersey are empowered to appoint and fix the term of office for their superintendents , a superintendent's use of his district's e-mail system to endorse and promote candidates for election to the board may be considered using his

official position to secure unwarranted privileges, or advantages for himself. However, in the present case the facts do not indicate that Dr. Peddle took such action.

There are no facts to demonstrate that Dr. Peddle attempted to use his official position as superintendent to secure unwarranted privileges for himself or others. There was no information presented to show that Dr. Peddle used district e-mail to directly or indirectly endorse or promote candidates that would give rise to a finding of a violation under N.J.S.A. 18A:12-24(b). The PEA disseminated the noted e-mail messages. Dr. Peddle did not approve the e-mail, nor was he a designated recipient of the e-mail. Moreover, Dr. Peddle had no knowledge of the existence of the e-mail, until he received the complaint commencing this action. The PEA was not contractually required to provide him with that information.

Therefore, the Commission finds no probable cause to credit the allegation that Dr. Peddle violated N.J.S.A. 18A12-24(b) and dismisses this charge against him.

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

Regarding Mr. Carpenter, the facts do not show that he used his official position as a Board member to secure unwarranted privileges for himself or others by using district e-mail to campaign for himself or other candidates running for election to the Board. There has been no information presented to indicate that Mr. Carpenter was involved in the alleged endorsement and promotion of candidates that would warrant a finding of probable cause under N.J.S.A. 18A:12-24(b). In addition, there were no facts presented to show that Mr. Carpenter participated in the distribution of the PEA e-mailed endorsements.

Based on the foregoing, the Commission finds no probable cause to credit the allegation that Mr. Carpenter violated the School Ethics Act and dismisses the complaint against him.

DECISION

For the foregoing reasons, the Commission finds no probable cause that Dr. Peddle or Mr. Carpenter violated the School Ethics Act and dismisses the complaint against them.

RESPONDENTS' REQUEST FOR SANCTIONS

Respondents counterclaimed that the complaint brought by Dr. Sooy was frivolous and that he should be sanctioned under N.J.S.A. 18A:12-29(e). In order to find a counterclaim frivolous, the Commission must find, on the basis of pleading and evidence presented, that the complaint was commenced or continued in bad faith; or that the non-prevailing party knew or should have known that the complaint was without any

reasonable basis in law or equity and could not be supported by a good faith argument for extension, modification or reversal of existing law. N.J.S.A. 2A:15-59.1. The Commission finds that Dr. Sooy's allegations were not made in bad faith and were not without any reasonable basis in law. Therefore, the Commission does not find the present complaint to be frivolous.

The Commission therefore dismisses respondents' counterclaim against Dr. Sooy for filing a frivolous complaint and denies their request for sanctions.

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

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C24-01

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 August 28, 2001, the Commission found no probable cause to credit the allegations that Respondents violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. and therefore dismissed the charges against them; 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.

Paul C. Garbarini, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its public meeting on September 25, 2001.

Lisa James-Beavers
Executive Director