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**RICHARD M. SOOY, JR., D.P.M.**

V.

**ROBERT A. PEDDLE, Ed.D.,  
PENNSVILLE BOARD OF EDUCATION  
SALEM COUNTY**

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: **BEFORE THE SCHOOL  
ETHICS COMMISSION**  
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: **Docket No.: C25-01**  
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: **DECISION**  
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### **PROCEDURAL HISTORY**

This matter arises from a complaint that the Pennsville School District (District) Superintendent, Dr. Robert Peddle, violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq.,<sup>1</sup> when he allegedly authorized the transmittal of derogatory e-mail with respect to certain Pennsville Board of Education (Board) members and authorized an e-mail endorsement of PEA-supported Board members. Specifically, Dr. Sooy does not allege that Dr. Peddle violated any specific provision of the Act.

In his answer, Dr. Peddle asserted that the Pennsville Education Association (PEA) transmitted the aforementioned e-mail and was permitted to use the interschool e-mail system for association business pursuant to its contractual agreement with the Board. Dr. Peddle denied any involvement in the matter and denied having violated any provision of the Act.

Dr. Peddle counterclaimed that the complaint filed by Dr. Sooy was frivolous.

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

During its public meeting of August 28, 2001, the Commission voted to find no probable cause. It further 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.

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<sup>1</sup> Complainant initially named as respondents two additional people who were affiliated with the PEA. However, they were not school officials and therefore, the complaint was dismissed against them.

## **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. 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. On May 22, 2001, the PEA used the District's e-mail system to circulate memoranda to association members regarding its dissatisfaction with the conduct of certain Board members during a Board meeting. The same e-mail commended two other board members whom the PEA had previously endorsed for their conduct. The contract did not require that Dr. Peddle be copied on interoffice mailings distributed by the PEA.

The PEA e-mail was not addressed to Dr. Peddle and there is no information to demonstrate that he authorized or 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 existence of the e-mail until he received the complaint commencing this action.

## **ANALYSIS**

Complainant urges the Commission to find that Dr. Peddle violated the School Ethics Act generally. 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 found no probable cause that Dr. Peddle violated the 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 were to use the district e-mail system to send or authorize the sending of derogatory comments about board members that he did not like and compliment those that he did like, it could be considered using his position to secure unwarranted privileges for others under N.J.S.A. 18A:12-24(b). In addition, according to N.J.S.A. 18A:17-15, local boards of education in New Jersey are empowered to appoint and fix the term of office for their superintendents. Therefore, if a superintendent, using his position of leadership in the district, authorizes derogatory comments against certain Board members and compliments of those Board members who may be favorable to him using district e-mail, he may be considered to be using his position to secure unwarranted privileges or advantages for himself in violation of N.J.S.A. 18A:12-24(b). However, the present case does not indicate that Dr. Peddle was involved in such action.

There are no facts to demonstrate that Dr. Peddle used or attempted to use his official position as superintendent to secure unwarranted privileges or advantages for himself or others pursuant to N.J.S.A. 18A:12-24(b). The facts show no knowledge or authorization by Dr. Peddle of the transmittal e-mail containing derogatory remarks regarding Board members. The PEA disseminated the noted e-mail messages. Dr. Peddle was not a designated recipient of the e-mail and there was no requirement that Dr. Peddle approve it. Moreover, Dr. Peddle had no knowledge of the existence of the e-mail, until he received the complaint commencing this action. Therefore, the Commission finds no probable cause that Dr. Peddle violated N.J.S.A. 18A12-24(b).

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

### **REQUEST FOR SANCTIONS**

Dr. Peddle counterclaimed that the complaint brought by Dr. Sooy was frivolous and that he should be sanctioned pursuant to N.J.S.A. 18A:12-29(e). In order to find a counterclaim frivolous, the Commission must find, on the basis of pleadings 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 an extension, modification or reversal of existing law. The Commission cannot find that Dr. Sooy's allegations were made in bad faith or that they have no reasonable basis in law. Therefore, the Commission does not find the present complaint to be frivolous and declines to impose 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 – C25-01**

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 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.

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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.

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Lisa James-Beavers  
Executive Director