

	:	BEFORE THE SCHOOL
GEORGE MEADOWS,	:	ETHICS COMMISSION
	:	
V.	:	Docket No.: C37-03
	:	
DR. JOSEPH ATALLO,	:	DECISION
PATERSON BOARD OF EDUCATION,	:	
PASSAIC COUNTY	:	
	:	

PROCEDURAL HISTORY

This matter arises from a complaint filed by George Meadows, architect for the Paterson Board of Education, on October 8, 2003, alleging that respondent Dr. Joseph Atallo violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. when, as a member of the Paterson Board of Education (Board), he approached Mr. Meadows and attempted to solicit a campaign contribution for a candidate for Mayor of Paterson, William Kline. The Complainant alleges that when he declined to make such a contribution, Dr. Atallo commented as to why he should donate when asked by a Board member and over 12 months later retaliated against him by challenging his bills and trying to influence the Board not to reappoint him. Specifically, Complainant alleges that Dr. Atallo's conduct violated N.J.S.A. 18A:12-24(b) and (e) of the Act.

Dr. Atallo, in answer to the complaint, states that he did not single out the bills of Complainant for discussion. Rather, he states that there were three vendors whose bills he questioned as being excessive or lacking detail. He also denies saying that the bills should not be paid and says that he only requested that the hours of work be more clearly defined. Dr. Atallo said a majority of board members agreed that the bills could be clearer although they ultimately approved payment. He also denies trying to influence the school district not to reappoint him as principal architect because as a member of a State-Operated School Board, he does not have the power to influence such an appointment.

The School Ethics Commission advised the parties that it would discuss this case at its meeting on December 16, 2003. The Commission did not require the appearance of either party. However, both parties appeared, Dr. Atallo with counsel, Joel Miklacki, Esq. and witnesses William Kline and Dr. Jonathan Hodges. Mr. Meadows appeared with his witness, Gabriel Guzman.

The Commission found no probable cause to credit the allegations that Dr. Atallo violated the School Ethics Act at its meeting of February 3, 2004 and dismissed the complaint. The Commission adopted this decision at its meeting of May 25, 2004.

FACTS

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

Dr. Atallo is a member of the Paterson Board of Education. He was elected to the Board in April 2000. He testified that at the time in question, he chaired the Board's Finance Committee. He served as Business Administrator in the Paterson School District in 1990.

George Meadows has worked as an architect for the Paterson Board of Education since 1985. Initially, he performed work in the District as a partner in another firm, and for the last 13 years, he performed work as the principal of his own architectural firm. Despite the fact that Dr. Atallo was Business Administrator for the Paterson School District over this time period, Mr. Meadows testified that he did not know Dr. Atallo before the incident that gave rise to the filing of this complaint. Mr. Meadows said that all of his dealings have been with the Director of Facilities, not the Business Administrator.

Although denied by Dr. Atallo, the Commission believes that prior to the Paterson mayoral election of May 2002, Dr. Atallo came to the office of George Meadows and solicited a campaign contribution from him for then mayoral candidate William Kline. The Commission finds this to be consistent with prior conduct of Dr. Atallo that was testified to in a prior matter before the Commission that is currently pending in the Office of Administrative Law. Mr. Meadows testified that he told Dr. Atallo that he would be more inclined to support Mr. Kline's opponent, Joey Torres. Mr. Meadows did in fact give a donation to Mr. Torres for the mayoral campaign.

Mr. Meadows had two interns working in his firm at the time. One of them, Mr. Gabriel Guzman, testified before the Commission that he did not hear the discussion between Dr. Atallo and Mr. Meadows, but that Mr. Meadows came into the interns' office after speaking with someone in the main office and told him and another intern what had happened as set forth above. Mr. Guzman testified that Mr. Meadows said that they have to be aware that things like this can happen. He advised them not to get involved in political issues.

Mr. Meadows testified that he contacted the Director of Facilities within 30 minutes of Dr. Atallo's visit. When he received a call from the Director of Facilities over one year later to clarify his bills, he attributed the request to Dr. Atallo's visit. In response, Mr. Meadows gave the Director a sheet summarizing the work, but was told that he would need to submit more than that because the Board was asking for it. Mr. Meadows questioned whether it was in fact Dr. Atallo who was requesting it and the Director confirmed that it was. Dr. Atallo testified that the reason he questioned the bills was because of a large spike in the amount of the invoice prior to the August meeting.

Mr. Meadows' invoices for the time period leading up to the August meeting at which his bills were questioned were for \$17,890.00 in March and \$22,616 in May. There appears to be a dispute over the amount of the invoice that the Board was voting upon for the August meeting. Mr. Meadows says that it was for \$26,360.00. Mr. Miklacki says that the amount was for \$31,000. Mr. Meadows submitted post-hearing correspondence indicating that the bill for \$31,000 was not sent to the Board until September 24, 2003. The bills set forth the period invoiced, the projects worked upon, hours worked and fees paid to outside consultants by Mr. Meadows. The second page shows a breakdown of the hours worked per project, although the amount of hours spent per duty on the project are not enumerated. Mr. Meadows stated that he had been invoicing the same way for many years.

Dr. Jonathan Hodges, who was elected to the Board in April 2002, testified that he also questioned the bills of Mr. Meadows due to the spike in the amount of the invoice. He testified that he never saw clarified bills because the invoices were approved for payment.

ANALYSIS

The complainant alleges that the above conduct of Dr. Joseph Atallo constitutes violations of N.J.S.A. 18A:12-24(b) and (e) of the School Ethics Act.

N.J.S.A. 18A:12-24(b) 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.

In order to find probable cause under N.J.S.A. 18A:12-24(b), there must be information that the respondent obtained or attempted to obtain a privilege or advantage that he would not have obtained if he were not a board member. The actual solicitation of the contribution would qualify as such a privilege; however, the solicitation was made in April 2002, which means that the complaint as to the solicitation is well beyond the one-year limitation period for filing a complaint set forth in the Commission's regulations at N.J.A.C. 6A:28-1.8(a). Thus, the issue is whether the subsequent statements made by Dr. Atallo at the public meeting of the Board questioning Mr. Meadow's bill and the questions he raised to the Facilities Director about Mr. Meadows' bill could be considered using his position to attempt to gain an unwarranted privilege or advantage for himself or others. The Commission does not have sufficient information from which to conclude that Dr. Atallo's expressed concern over Mr. Meadows' bill was linked to or based upon Mr. Meadows' refusal to make a campaign contribution 16 months prior to the meeting. The pleadings, testimony and bills submitted indicated that Mr. Meadows submitted several bills after the solicitation but before the August meeting, i.e. between May 2002 and July 2003. These invoices were not challenged by Dr. Atallo. Therefore, the Commission finds that Dr. Atallo did not use or attempt to use his position to secure unwarranted privileges or

advantages for himself or others. The Commission therefore finds no probable cause to credit the allegation that Dr. Atallo violated N.J.S.A. 18A:12-24(b).

Next, Complainant urges the Commission to find that Dr. Atallo's conduct violated N.J.S.A. 18A:12-24(e), which provides:

No school official, or member of his immediate family, ..., shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the school official has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the school official in the discharge of his official duties.

The allegation that Dr. Atallo violated N.J.S.A. 18A:12-24(e) also goes to the actual solicitation, which is beyond the one-year limitation period for filing complaints. The allegation does not go to the subsequent challenge to Mr. Meadows' bills or the challenge to his appointment as principal architect, which is cognizable by the Commission. The Commission therefore cannot find probable cause to credit the allegation that Dr. Atallo improperly solicited a campaign contribution in violation of N.J.S.A. 18A:12-24(e).

DECISION

For the foregoing reasons, the Commission finds no probable cause to credit the allegations that Dr. Atallo violated N.J.S.A. 18A:12-24(b) or (e) of 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.

Mark Finkelstein
Acting Chairperson

Resolution Adopting Decision – C37-03

Whereas, the School Ethics Commission has considered the pleadings, documents and the testimony before it; and

Whereas, the Commission has found no probable cause to credit the allegation that Dr. Joseph Atallo violated N.J.S.A. 18A:12-24(b) and dismissed the complaint against them; and

Whereas the Commission has reviewed a draft decision; and

Whereas, the Commission agrees with the draft decision;

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

Mark Finkelstein, Acting Chairperson

I hereby certify that the School
Ethics Commission adopted
this decision at its public meeting
on May 25, 2004.

Lisa James-Beavers
Executive Director