
**DEBORAH REGGIO &
BARBARA McHUGH**

V.

**WILLIAM RANDAZZO &
ROGER STEAD,
BERLIN BOROUGH BOARD OF ED.
CAMDEN COUNTY**

:
: **Before the School**
: **Ethics Commission**
:
:
: **Docket No.: C24-99**
:
: **DECISION**
:

PROCEDURAL HISTORY

This matter arises from a complaint filed by Deborah Reggio and Barbara McHugh on November 15, 1999 alleging that Berlin Borough Superintendent William Randazzo and Business Administrator Roger Stead violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq., by serving as Clerk of the Works for the school district's construction project. The complainants set forth that respondents violated N.J.S.A. 18A:12-24 generally, but later indicated that they believed that respondents violated N.J.S.A. 18A:12-24(f). The Commission considered whether respondents conduct violated N.J.S.A. 18A:12-24(f), (b) or (d) of the School Ethics Act.

Mr. Randazzo filed an answer to the complaint on December 9, 1999 admitting to serving as Clerk of the Works, but denying having committed any violation of the School Ethics Act. He added that he resigned on November 22, 1999 and therefore the complaint was moot. Mr. Stead similarly admitted to serving as Clerk of the Works and Project Coordinator in his answer of December 1, 1999. He added that he worked an average of 19 hours per week over his regular duties as SBA/BS and denied that his duties in connection with the construction project conflicted with his duties as SBA/BS in violation of the Act.

The parties were invited to appear before the Commission at its February 22, 2000 meeting. However, when Mr. Stead retained Douglas Baker, Esq. as counsel, Mr. Baker asked for an adjournment due to a scheduling conflict. Therefore, the Commission heard testimony at its March 28, 2000 meeting. Mr. Baker appeared with Mr. Stead and Beth Finkelstein, Esq. represented Mr. Randazzo. The complainants appeared pro se. The Board President, Richard Kudzmas, and the Board Solicitor, Ronald Sahli, appeared to testify for the respondents.

After the March Commission meeting, Mr. Randazzo submitted an amended answer to indicate that there were no bids for the Clerk of the Works position as it did not have to be bid. Mr. Randazzo and Mr. Stead also sent submissions objecting to some of the documents produced by the complainants. These were all considered by the Commission at its April 25, 2000 meeting. The Commission now adopts this decision finding no probable cause.

STATEMENT OF FACTS

The following facts were discerned from the pleadings, documents submitted in support thereof, testimony and the Commission's investigation. This statement of facts is not intended to set forth all of the information that the Commission obtained.

On November 24, 1998, the Berlin Borough Board of Education posted a request for proposals for a Clerk of the Works for school construction and renovation work. Qualified and interested parties were told to submit a proposal of scope of services and a fee structure with a "not to exceed" number to: "Berlin Borough Board of Education c/o Roger Stead." The bottom of the notice set forth, "Any questions should be directed to Roger Stead" and gave the telephone number of the business office.

The Board received seven proposals; however, one was not considered because it was incomplete. The Board reviewed the six proposals, but did not select any of them. The Board considered the quotes to be beyond the budget that the Board was considering for the service. The proposals ranged from \$50,000 for two hours per day to \$146,000 for eight hours per day. The Board never officially rejected the proposals at a public meeting.

On February 22, 1999, Mr. Sahli wrote a letter to the Board recommending that he, Mr. Randazzo and Mr. Stead be considered as a team to be responsible for the project as Clerk of the Works. He told the Board that by doing so, the district could contain costs and assure quality by having someone available to give attention to the project at all times.

On April 8, 1999, the Board named William Randazzo and Roger Stead as Clerk of the Works for the Berlin Community School renovations and additions, which were to begin on July 1, 1999 and end on December 31, 2000. The vote was four to three with Board members DiLauro, McBride and Schmidt voting "no."

On May 24, 1999, the Board rescinded the contracts of Mr. Randazzo and Mr. Stead and approved new contracts with the Clerk of the Works salary set forth therein. In addition to their contractual salary, Mr. Randazzo and Mr. Stead were compensated an additional \$23,400 each for performing the duties as Clerk of the Works from July 1, 1999 to December 31, 2000. Roger Stead was also appointed as Project Coordinator and was compensated an additional \$17,550 during the same period. These amounts were not provided as a stipend, but were built into the contractual salary and apportioned for the 18 months of service. The votes to rescind the contracts and approve new ones were unanimous except that Board member Houck abstained on the new contract for Mr. Randazzo.

During the summer, the hours that administrators are required to work are 8:00 a.m. to 3:00 p.m. Mr. Randazzo and Mr. Stead testified that they would arrive at work at approximately 7:00 a.m. and remain until 4:30 p.m. each day in order to perform their tasks as Clerk of the Works.

On November 22, 1999, the Board accepted the resignations of Mr. Randazzo and Mr. Stead from their position as Clerk of the Works. However, the Board voted to have them continue their duties until the Board appointed a replacement. They continued serving in the capacity as Clerk of the Works until March 15, 2000.

Mr. Randazzo's resume does not indicate any experience with major construction projects, except that he provides under the heading, "Additional Information," that he was "Involved in many construction projects including but not limited to additions, roof, aluminum siding, gutters, downspouts as well as furniture building and repair."

The question before the Commission is whether Mr. Randazzo or Mr. Stead violated N.J.S.A. 18A:12-24(f), (b) or (d) of the School Ethics Act in connection with their receipt of compensation from the Board for serving as Clerk of the Works.

ANALYSIS

Complainants did not set forth any particular provision of N.J.S.A. 18A:12-24 that they believe respondents' conduct violated in their complaint. However, before the Commission they argued that respondents violated N.J.S.A. 18A:12-24(f), which provides:

No school official shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated.

Mr. Stead testified before the Commission that although the proposals of the contractors who applied for the Clerk of the Works position were to be sent to his office, he did not review them, but sent them directly to Mr. Sahli. However, it is clear from Mr. Sahli's letter of February 22, 1999, that Mr. Sahli reviewed the proposals with Mr. Randazzo and Mr. Stead at some time before the proposals were rejected. After reviewing those proposals, Mr. Sahli suggested that the Board hire Mr. Randazzo and Mr. Stead as Clerk of the Works since they could view the project every day and save the board money for the amount of work that was needed.

The Commission cannot find on the basis of these facts that Mr. Randazzo and Mr. Stead used information not generally available to members of the public to secure financial gain for themselves. Mr. Sahli reviewed the proposals with the respondents to demonstrate to them that the Board could not afford to have someone present all day every day as it desired. It was then his suggestion that the Superintendent and Business Administrator serve in the role of Clerk of the Works, along with himself. The Commission therefore finds no probable cause that the respondents violated N.J.S.A. 18A:12-24(f).

The Commission also reviewed whether respondents' conduct violated N.J.S.A. 18A:12-24(b), which 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.

The Commission concluded that the appointment of Mr. Randazzo and Mr. Stead was suggested by Mr. Sahli, who encouraged the Board to reject the proposals for Clerk of the Works in favor of hiring the team of Sahli, Randazzo and Stead. The Commission was unable to conclude from the information before it that Mr. Randazzo and Mr. Stead took any affirmative steps to use their official position to secure unwarranted privileges for themselves. Moreover, the Commission is mindful that other administrators have served in this capacity in other districts. Therefore, respondents' doing so, by itself, does not constitute unwarranted employment.

The Commission last considered whether respondents violated N.J.S.A. 18A:12-24(d). This subsection prohibits a school official from undertaking any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties. The Commission does not find that holding the position of Clerk of the Works might reasonably be expected to prejudice the administrators' independence of judgment in the exercise of their official duties. As set forth above, Berlin Borough is not the first district to have an administrator serve as Clerk of the Works or Project Coordinator for a construction project in order to save money. The positions are not in conflict in that respect.

DECISION

For the foregoing reasons, the Commission finds no probable cause to credit the allegations that respondents violated N.J.S.A. 18A:12-24(b), (d) or (f) of the School Ethics Act. Therefore, the Commission dismisses the complaint against them.

This decision constitutes final agency action and thus is directly appealable to the Appellate Division of the Superior Court.

Respectfully submitted,

Paul C. Garbarini
Chairperson

Resolution Adopting Decision -- C24-99

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 finds no probable cause to credit the allegations that William Randazzo or Roger Stead violated the School Ethics Act; and

Whereas, the Commission has reviewed the proposed decision of its staff; and

Whereas, the Commission agrees with the proposed 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 the Resolution was duly adopted by the School Ethics Commission at its public meeting on May 23, 2000.

Lisa James-Beavers
Executive Director