

FACTS

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

Richard Lawrence has been a member of the Pinelands Regional Board of Education since 1997. He served as Board president during the 2000/2001 school year, but did not seek the position in 2001. Following the Board's April 2002 election, Mr. Lawrence called certain Board members to seek their support for his election as Board president. At the Board's May 1, 2002 reorganization meeting, Mr. Lawrence and fellow Board member Thomas Williams were nominated for Board president. The Board secretary called for a vote of all those in favor of Mr. Williams. Mr. Williams received 6 out of 9 possible votes. Mr. Lawrence did not object to the election process at the time of vote.

The week following the May 1, 2002 Board meeting, Mr. Lawrence entered the office of the BA/BS to question the fairness of the vote for Board president. In a memo dated May 7, 2002, the BA/BS reported that Mr. Lawrence became "agitated, raised his voice and pointed his finger at her and stated that he was wasn't going anywhere and that he would be around for a long time. He said that he was going to be more vocal and wanted me to know that there would be a lot of changes around here. He also stated that there was a groundswell taking place and that I had better stay out of the politics. He then abruptly left my office." The BA/BS also noted that she "felt physically threatened by Mr. Lawrence and was disturbed by his veiled threats regarding her job." The BA/BS gave this memorandum to the superintendent. Mr. Lawrence admits that during the meeting he did raise his hands in gesture and told her to "stay out of politics", but did not become agitated. The Board attorney advised the superintendent and the Board that the process of electing the president was completely legal and the method questioned by Mr. Lawrence had been utilized at prior reorganization meetings.

Prior to the May 1, 2002 Board reorganization meeting, Mr. Lawrence met with the superintendent and two other Board members in a personnel committee meeting. At that time, the superintendent shared his confidential plans for the transfer of a supervisor of special education services, as the result of a budget defeat and an agreed upon reduction in the Board's budget for the 2002/2003 school year. Immediately following the Board's reorganization meeting, Mr. Lawrence made a remark to the supervisor regarding his employment, stating words to the effect that the supervisor was out of a job. Mr. Lawrence testified that the comment referred to the supervisor's retirement, which was common knowledge. In his certification to the Commission, a former guidance counselor in the district who recently retired in 2002 set forth that "[i]t was common knowledge that [the supervisor] was expected to retire."

On May 16, 2002, at an executive session of the Board, candidates for assistant principal vacancies in the district were interviewed. Following the executive session, it was disclosed that not all Board members were present during the interview process. The following day's newspaper reported that not all members of the Board had been present

for the interviews. Complainant testified that several Board members said that they overheard Mr. Lawrence giving a reporter this information.

ANALYSIS

Complainant urges the Commission to find that Mr. Lawrence violated N.J.S.A. 18A:12-24.1(a), (e), (g) and (i). Each section will be discussed as it relates to the aforementioned allegations. The Commission notes that under the School Ethics Act, N.J.S.A. 18A:12-29(b), the complainant has the burden of proving factually that the respondent's conduct is in violation of the Code of Ethics.

Complainant first alleges that Mr. Lawrence threatened the BA/BS regarding her position. The relevant sections of the Code of Ethics that complainant cites are N.J.S.A. 18A:12-24.1(a) and (i). N.J.S.A. 18A:12-24.1(a) provides:

I will uphold and enforce all laws, rules and regulation of the State Board of Education, and court orders pertaining to schools. Desired changes will be brought about only through legal and ethical procedures.

The question under N.J.S.A. 18A:12-24.1(a) is whether Mr. Lawrence failed to uphold the laws, rules and regulation of the State Board of Education or court orders pertaining to the schools. Mr. Lawrence questioned the manner in which the BA/BS conducted the Board's election of its president. Complainant alleges that Mr. Lawrence should have objected to the election process at the time of vote, rather than discuss the matter in private with the BA/BS. Complainant also refers to the written statement of the Board secretary/business administrator wherein she sets forth that Mr. Lawrence "became agitated, raised his voice and pointed his finger at [her] and stated that he would be around for a long time and that he was going to be more vocal and wanted [her] to know that there would be a lot of changes around here."

The Commission does not discern any law, rule or regulation alleged to be violated by Mr. Lawrence. While the Commission notes that Mr. Lawrence's objection to the election process may have been more appropriately voiced at the time of vote, it finds insufficient information to show that Mr. Lawrence's exchange with Ms. Townsend constitutes a violation of laws, rules or regulation of the State Board of Education or courts orders pertaining to the schools. Similarly, the Commission does not discern that Mr. Lawrence tried to bring about a desired change through an illegal and or unethical procedure. He simply wanted to know why the procedure was changed. Asking that question at a Board meeting could discourage what may be viewed as a confrontational exchange in the future, but the Commission does not find that Mr. Lawrence violated any law. The Commission therefore finds that there is no probable cause to credit the allegation that Mr. Lawrence violated N.J.S.A. 18A:12-24.1(a).

Under N.J.S.A. 18A:12-24.1(i), the complainant must prove that Mr. Lawrence failed to support and protect Ms. Townsend in the proper performance of her duties. It is undisputed that Mr. Lawrence and Ms. Townsend were the only individuals present at

their meeting. Ms. Townsend testified that Mr. Lawrence appeared agitated, raised his voice and pointed his finger at her. Mr. Lawrence testified that he tends to project his voice and gesture when he speaks, but he was not agitated. Ms. Townsend also testified that Mr. Lawrence made “veiled threats”, regarding her job, when he told her that he was going to be “more vocal and there would be a lot of changes”. Mr. Lawrence testified that his comments referred to the politics of the Township. Mr. Lawrence argued that although Ms. Townsend testified that she felt threatened, she did not file a complaint of harassment against Mr. Lawrence. The Commission finds the exchange between the two to be a matter of perception. His words do not appear to be particularly threatening although his conduct that accompanied the words may have been. Based on the testimony and documentation provided, the Commission finds no probable cause to credit the allegation that Mr. Lawrence failed to support and protect school personnel in the proper performance of their duties in violation of N.J.S.A. 18A:12-24.1(i).

Complainant next alleges that Mr. Lawrence disclosed confidential information in violation of N.J.S.A. 18A:12-24.1(e) and (g). N.J.S.A. 18A:12-24.1(e) provides:

I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

Therefore, the complainant must prove factually that Mr. Lawrence failed to recognize the authority of the Board and took private action by disclosing information that could have compromised the Board.

Complainant alleges that Mr. Lawrence disclosed confidential information to the supervisor of special education services, when following a Board meeting, he commented that the supervisor was, “out of a job.” At a personnel committee prior to the Board meeting, the superintendent discussed the need to transfer the supervisor as a result of the defeat of the budget. Complainant references a memorandum to the superintendent wherein the supervisor sets forth, “[f]ollowing the reorganization meeting, Dick Lawrence came up to me and said, ‘I guess you’re out of a job’.” Mr. Lawrence testified that his statement referred to the supervisor’s expected retirement, which, according to a former school guidance counselor, was common knowledge in the district. The Commission finds Mr. Lawrence’s comment to be vague. It therefore cannot infer that Mr. Lawrence’s statement referred to topic discussed at the personnel committee meeting rather than the supervisor’s impending retirement. Thus, the Commission finds no probable cause to credit the allegation that Mr. Lawrence violated N.J.S.A. 18A:12-24.1(e).

Regarding Mr. Lawrence’s alleged disclosure to the newspaper reporter, complainant refers to a newspaper article, published May 17, 2002, which sets forth that two Board members were not present for the full interview process. The article also set forth that Mr. Lawrence voted “no” to the proposed salary for the position. The Commission notes that the article revealed the absence of two Board members during part of the interview process, but did not indicate that Mr. Lawrence was the source of

that information. The Commission finds that while Mr. Lawrence's comment appears unclear, it does not warrant a finding that he made personal promises or took private action that could compromise the Board.

For the foregoing reasons, the Commission finds that there is no probable cause to credit the allegation that Mr. Lawrence made personal promises or took private action in violation of N.J.S.A. 18A:12-24.1(e).

Complainant's allegation that Mr. Lawrence disclosed confidential information also pertains to N.J.S.A. 18A:12-24.1(g), which provides:

I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

As set forth above, the complainant must prove that Mr. Lawrence disclosed confidential information pertaining to the schools that injured certain individuals or the schools. In the alternative, he must prove that Mr. Lawrence failed to provide accurate information. Mr. Lawrence's comment regarding the supervisor is too vague to infer from it that he was disclosing the superintendent's confidential plan to transfer the supervisor. If the comment was about the transfer, then it was inaccurate, but the Commission is not convinced that the comment was about the transfer. Therefore, the Commission finds no probable cause to credit the allegation that Mr. Lawrence violated N.J.S.A. 18A:12-24.1(g) in connection with the "out of a job" comment.

Similarly, there is insufficient information to demonstrate that Mr. Lawrence disclosed information discussed in the Board's closed session to a newspaper reporter. In addition, the Commission is not convinced that revealing that some of the Board members were not present for interviews would needlessly injure individuals or the schools. Therefore, the Commission finds no probable cause to credit the allegation that Mr. Lawrence violated N.J.S.A. 18A:12-24.1(g).

DECISION

For the foregoing reasons, the Commission finds no probable cause to credit the allegations that Mr. Lawrence 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.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C32-02

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

Whereas, at its meeting of December 17, 2002, the Commission found no probable cause to credit the allegations that Mr. Lawrence 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 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 February 25, 2003.

Lisa James-Beavers
Executive Director