

aforementioned position. In September 2002, Dr. Edwin Duroy, the Superintendent of the District, directed Mr. Johnson to investigate the alleged misconduct of Dr. Atallo regarding the solicitation of campaign contributions from a District vendor and threatening statements directed to Dr. Duroy. In October 2002 Dr. Duroy authorized Mr. Johnson to file a complaint against Dr. Atallo as a result of Mr. Johnson's finding and legal advice. Dr. Duroy also asked Mr. Santiago to sign the complaint, since he was the Board President at that time. Mr. Johnson represented Mr. Santiago before the School Ethics Commission in his capacity as Special Legal Counsel to the District.

On June 11, 2003 at a regular meeting of the Board, a Resolution approving an increase in the maximum allowable cap payable to Mr. Johnson was passed. Mr. Santiago moved to approve the increase and voted "yes" to pass the resolution.

ANALYSIS

The Commission finds that N.J.S.A. 18A:12-24(c) is applicable to the present matter, which provides in pertinent part:

No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family.

The Commission notes that Dr. Duroy's directed Mr. Johnson as Special Counsel to the District to file a complaint against Dr. Atallo as a result of Mr. Johnson's findings and legal advice regarding a District investigation of the suspected misconduct of Dr. Atallo. The Commission further notes that Dr. Duroy asked Mr. Santiago to sign the complaint, since he was the Board President. Under these circumstances, it appears that the complaint was filed for the benefit of the school District and not for the personal gain of Mr. Santiago. Thus, Mr. Johnson represented the interests of the school District and not that of Mr. Santiago. Based upon the facts presented, the Commission finds that there is insufficient information that Mr. Santiago had a personal involvement that created some benefit to him when he voted to approve the resolution to increase the pay to Mr. Johnson.

DECISION

For the foregoing reasons, the Commission finds that Mr. Santiago did not violate N.J.S.A. 18A:12-24(c) of the 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. See, New Jersey Court Rule 2:2.3(a).

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C35-03

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

Whereas, at its meeting of May 5, 2004, the Commission found that Mr. Santiago did not violate N.J.S.A. 18A:12-24(c) and dismissed the charge 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.

Paul C. Garbarini, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its public meeting on June 22, 2004.

Lisa James-Beavers
Executive Director