

district employee. At the conclusion of the meeting, Mr. Palmer asked the Board secretary, Mrs. Cecelia Brown-Tucker to pass along a statement to Ms. Franklin-Owens indicating that if she did not smile, he would vote against her salary increase. Mrs. Brown-Tucker declined to pass along the remark. Mr. Palmer then prepared a post-it note which set forth, “smile next time you see me or I shall vote “no” for your increase.” Mr. Palmer attached the post-it to Ms. Franklin-Owens’ desk. Mr. Palmer did not see Ms. Franklin-Owens after he placed the note on her desk or prior to the Board’s vote in the matter. The Board met on December 19, 2002, and all board members, including Mr. Palmer, voted in favor of an increase for Ms. Franklin-Owens.

In a similar incident, Mr. Palmer commented to a teacher in the district, Ms. Cornelia L. Golden, that he would not approve her transfer if she did not smile. There was no adverse action taken by Mr. Palmer regarding the matter. Ms. Golden took no action regarding Mr. Palmer’s comment.

In an interview with investigators from the Office of Compliance Investigation, Mr. Palmer admitted that he was responsible for the communications to the two employees.

ANALYSIS

Complainant urges the Commission to find that Mr. Palmer violated N.J.S.A. 18A:12-24.1(a), (e) and (i). The allegations will be discussed as they relate to the above-referenced sections of the Code of Ethics. The Commission notes that under the School Ethics Act, N.J.S.A. 18A:12-29(b), the complainant has the burden of proving that the respondent’s conduct is in violation of the Code of Ethics.

N.J.S.A. 18A:12-24.1(a) provides:

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

For the Commission to find probable cause under N.J.S.A. 18A:12-24.1(a), it must find that Mr. Palmer’s actions were in violation of a law, rule or regulation, or was an attempt to bring about some desired change in a law, rule or regulation of the State Board of Education through non-legal or unethical means. There is insufficient information to demonstrate that such a change was attempted or achieved, since Mr. Palmer did not vote against the salary increase for Ms. Franklin-Owens or take action against the transfer of Ms. Golden. Therefore, the Commission finds no probable cause to credit the allegation that Mr. Palmer violated N.J.S.A. 18A:12-24.1(a).

The Commission next considers complainant’s allegation that Mr. Palmer violated N.J.S.A. 18A:12-24(e), which 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.

Pursuant to N.J.S.A. 18A:12-24.1(e), the complainant must demonstrate that Mr. Palmer made personal promises or took private action that could compromise the Board when he made the above-referenced comments to Ms. Franklin-Owens and Ms. Golden. The Commission notes Mr. Palmer's argument that he made the comments in jest. The Commission further notes that Mr. Palmer did not follow through with his statement to vote "no" to Ms. Franklin-Owens' salary increase or his statement that he would not approve Ms. Golden's transfer. In addition, there is no information that the women changed their behavior in any way based on Mr. Palmer's actions. The Commission finds that there is insufficient information to show that Mr. Palmer made personal promises or took private action that could compromise the Board in violation of N.J.S.A. 18A:12-24.1(e), based on the information provided and the nature of the comments.

Next, Complainant urges the Commission to find that Mr. Palmer violated N.J.S.A. 18A:12-24.1(i), which requires the complainant to prove that Mr. Palmer failed to support and protect Ms. Franklin-Owens or Ms. Golden in the proper performance of their duties. The Commission finds Mr. Palmer's actions to be consistent with the intent of 18A:12-24.1(i) in that he did not disparage the women or take any action against them. Thus, there is insufficient information that he failed to support and protect school personnel in proper performance of their duties. Therefore, the Commission finds no probable cause to credit the allegation that Mr. Palmer violated 18A:12-24.1(i).

Complainant also alleges that Mr. Palmer violated N.J.S.A. 18A:12-24(b) and (e) of the Act. N.J.S.A. 18A:12-24(b) provides in relevant part:

No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages... for himself..

The Commission cannot discern any privilege or advantage to be achieved by Mr. Palmer's comments. In light of the nature of Mr. Palmer's comments and his actions in favor of Ms. Franklin-Owens and Ms. Golden, the Commission believes that Mr. Palmer's comments were made in jest and contradict the allegations that he attempted to secure unwarranted privileges or advantages for himself. The Commission, therefore, finds no probable cause to credit the allegation that Mr. Palmer violated N.J.S.A. 18A:12-24(b).

Complainant also alleges that Mr. Palmer violated N.J.S.A. 18A:12-24(e), which provides, in pertinent part:

No school official...shall solicit or accept any gift, favor...based upon an understanding that the gift, favor...was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties...

Since, the Commission has established that Mr. Palmer's actions were done in jest, despite the quality of the joke, the Commission has no basis from which to conclude that Mr. Palmer solicited a favor, the denial of which would influence him in the discharge of his official

duties. The Commission, therefore, finds no probable cause to credit the allegation that Mr. Palmer violated N.J.S.A. 18A:12-24(e).

DECISION

For the foregoing reasons, the Commission finds no probable cause to credit the allegation that Mr. Palmer 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 – C51-02

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 February 25, 2003, the Commission found no probable cause to credit the allegations that Mr. Palmer violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq., including the Code of Ethics, N.J.S.A. 18A:12-24.1, 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 March 25, 2003.

Lisa James-Beavers
Executive Director