

DAVID ZUKOWSKI	:	BEFORE THE SCHOOL
	:	ETHICS COMMISSION
v.	:	
	:	Docket No. C61-06
RAYMOND A. DELBURY	:	
SUSSEX WANTAGE REGIONAL	:	DECISION
BOARD OF EDUCATION	:	
SUSSEX COUNTY	:	

This matter arises from a complaint filed on January 18, 2007 by David Zukowski a former member of the Sussex Wantage Regional Board of Education (Board) alleging that Raymond Delbury, a member of the Board, violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. Complainant specifically alleges that respondent violated N.J.S.A. 18A:12-24.1(d), (e), (f), (g) and (j) of the Code of Ethics for School Board Members when he wrote a letter to the editor that was printed on November 9, 2006, aligned himself with a political group called the “Sussex/Wantage Taxpayers Association, made statements during Board meeting that he intended to change the curriculum to what he wants and disrupts the running of the district by questioning every purchase. The respondent filed a timely answer on January 23, 2007 through his attorney, Donald P. Hogan, Esquire, wherein he denied that he violated the Act. He also denied making the alleged statement regarding the curriculum and he denied ever being a member of the “Sussex/Wantage Taxpayers Association.” He admitted looking at bills and raising questions.

The Commission invited, but did not require, the parties to attend its April 24, 2007 meeting. The parties were advised of their right to bring counsel and witnesses. The matter was adjourned to the May 22, 2007 meeting. Neither the complainant nor the respondent attended the meeting. During the public portion of that meeting, the Commission voted to find that the respondent did not violate N.J.S.A. 18A:12-24.1(d), (e), (f), (g) and (j) of the Code of Ethics for School Board Members and dismissed the complaint.

**FACTS**

The Commission was able to discern the following facts based on the pleadings and the documents submitted.

At all times relevant to the allegations in this complaint, the respondent was a member of the Board. The complainant had previously been a member of the Board.

On November 9, 2006, the following letter to the editor, written by the respondent, was published in a local newspaper.

As a newly appointed member of the Sussex Wantage Board of Education, I still do not understand why it is so hard for you and me, (the taxpayer) to find our basic information concerning the running of our school system.

I do not understand why, when I ask simple questions (about subjects such as transportation or travel logs) or request copies of expense accounts (if they exist), or request a detailed summary of an employees contract or other basic information necessary to run a 21-million dollar enterprise, I either receive partial information, or I need to request the information a second or third time causing month's of delay, or I might not get the requested information at all.

Ladies and gentleman, we need your involvement and help. I am constantly told:

Shhhhhhh keep it quiet. It can be quiet no longer. It is your money. You must get involved. With your help and the help of those board members that are willing to stick their necks out for you and our children, we together can (and will) straighten this place out. But it can not, and it will not, be done without your involvement.

If you owned a 21-million dollar business, (You do!!), what would you do to the individual(s) that made the following decision? (Would you give them tenure? Would you leave them in the position? Would you move them horizontally?) (The Peters Principal) Let us know. In or about July 2006 the decision was made to purchase \$12,000 to \$15,000 worth math books to supplement our 10 year old books. The people who made this decision were in the position to know, or should have known, that new math books costing us nearly \$50,000 were going to be presented to the board for purchase in September-October 2006.

To this day, I still do not know who the people were that made the decision to purchase these now obsolete math books.

I would also like you to know that the \$12,000 to \$15,000 July purchase was not presented to the finance committee for payment until October. If it had been given to finance, earlier this would have alerted the board to this expenditure,

We were once again sucker punched.

The respondent signed the letter "Raymond A Delbury" and the newspaper added under the respondent's name, "Sussex-Wantage Board of Education." The respondent admitted that he looked at the bills and raises questions when he is unsure about an expenditure.

## **ANALYSIS**

The Commission notes that, pursuant to N.J.S.A. 18A:12-29, the complainant bears the burden of factually proving any violations of the Code of Ethics for School Board Members. The complainant alleges that the respondent violated N.J.S.A. 18A:12-24.1(d) when he made statements during Board meetings that he intended to change the

curriculum to what he wants and when he disrupts the running of the district by questioning every purchase. N.J.S.A. 18A:12-24.1(d) provides:

I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.

To prove a violation of N.J.S.A. 18A:12-24.1(d), the complainant maintains that the respondent acted unethical at Board meetings when he made statements that he intends to adjust or change the curriculum to what he wants it to be. Complainant further alleges that the respondent violated N.J.S.A. 18A:12-24.1(d) because he disrupted the running of the district by questioning every purchase. However, as noted by the respondent, the complainant does not provide any Board meeting minutes to prove that such statements were made or that he questions every purchase. Furthermore, the complainant has failed to provide a specific date as to the occurrence of the violations upon which this allegation is based as required pursuant to N.J.A.C. 6A:28-6.3(b). Therefore, the Commission finds that that respondent did not violate N.J.S.A. 18A:12-24.1(d), with respect to this allegation and dismisses this allegation.

The complainant next alleges that the respondent violated N.J.S.A. 18A:12-24.1(f) because he aligned himself with a political group called the “Sussex/Wantage Taxpayers Association.” N.J.S.A. 18A:12-24.1(f) provides:

I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

To prove a violation of N.J.S.A. 18A:12-24.1(f), the complainant maintains that the respondent surrender his independent judgment to a partisan political group called the “Sussex/Wantage Taxpayers Association.” The evidence shows that the respondent certified that he does not belong to the “Sussex/Wantage Taxpayers Association” and the complainant has provided no evidence to prove that the respondent is a member of such an association. Furthermore, the complainant has failed to provide evidence to show how or when the respondent surrendered his independent judgment to the “Sussex/Wantage Taxpayers Association.” Therefore, the Commission finds that that respondent did not violate N.J.S.A. 18A:12-24.1(f), and dismisses this allegation.

The complainant’s final allegation is that the respondent violated N.J.S.A. 18A:12-24.1(d), (e), (g) and (j) of the Code of Ethics for School Board Members when he wrote the November 9, 2006 letter to the editor. To prove a violation of N.J.S.A. 18A:12-24.1(d), which is set forth above, the complainant maintains that the November 9, 2006 letter to the editor clearly indicates that the respondent believes he is the administrator of the school system. The Commission notes that in all of its previous decisions where it found a violation of N.J.S.A. 18A:12-24.1(d), there was some overt action that was taken by the board member to administer the schools. For example, in I/M/O William Lahn, C25-05, (December 20, 2005), a board member was found to have

violated N.J.S.A. 18A:12-24.1(d) when he went directly to the guidance secretary to ask for documents, and when he went to the boys' locker room, inspected the lockers and instructed district employees regarding the supervision of students. Also, in I/M/O Julia Hankerson, C36-02, (June 24, 2003), a board member was found to have violated N.J.S.A. 18A:12-24.1(d) when she went to the board office on several occasions and instructed district employees to perform certain tasks. In the present situation, the respondent did not interact with staff, nor did he take any overt action to administer the schools. Rather, he wrote a letter to the editor critical of the administration, which does not rise to the level of administering the schools. Therefore the Commission finds that the respondent did not violate N.J.S.A. 18A:12-24.1(d) when he wrote the November 9, 2006 letter to the editor.

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.

To prove a violation of N.J.S.A. 18A:12-24.1(e), the complainant maintains that the respondent failed to recognize that authority rests with the Board because in his letter to the editor he represented himself as speaking for the Board. While the Commission notes that the respondent began the letter to the editor by identifying himself as an appointed member of the Board, it is apparent to the Commission, after reviewing the content of the letter, that the respondent did not hold himself out as representing the Board. Rather, the respondent's letter is critical of the administration and somewhat critical of the Board. In the letter, the respondent asks for help from the public to obtain information from the administration. The Commission also notes that the respondent's letter to the editor was written prior to the Commission's advice in *Advisory Opinion A03-07*, (April 2, 2007), and, therefore, the Commission will not apply its advice to this case. Based on the foregoing, the Commission finds that the respondent did not violate N.J.S.A. 18A:12-24.1(e) when he wrote the letter to the editor.

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

The complainant maintains that the respondent violated N.J.S.A. 18A:12-24.1(g) because he provided inaccurate information in the letter to the editor. However, the complainant did not provide any evidence to show that the information was inaccurate. Thus, the Commission has no basis upon which to determine if the information was inaccurate. The complainant also maintains that the respondent violated N.J.S.A. 18A:12-24.1(g) because he was not working in concert with his fellow Board members.

However, the Complainant provided no evidence to show that the respondent failed to interpret to the staff the aspirations of the community for its school in concert with his fellow Board members. Therefore, the Commission finds that the respondent did not violate N.J.S.A. 18A:12-24.1(g) when he wrote the letter to the editor.

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

I will refer all complaints to the chief school administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

To prove that the respondent violated N.J.S.A. 18A:12-24.1(j), the complainant maintains that the letter itself is a violation of N.J.S.A. 18A:12-24.1(j). However, the Commission finds that the letter is not a violation, because N.J.S.A. 18A:12-24.1(j) refers to a process for the resolution of complaints. In the letter to the editor, the respondent merely shares his personal opinion and concerns with the public and asks for their help. The respondent's letter to the editor does not circumvent the resolution of any particular complaint. The Commission notes that, in the letter, the respondent is critical of the administration because of its alleged inability to provide the respondent with information as requested. However, these are not concrete complaints, but are general criticisms of the administration. Based on the foregoing, the Commission finds that the respondent did not violate N.J.S.A. 18A:12-24.1(j) when he wrote the letter to the editor.

## **DECISION**

For the reasons expressed above, the Commission finds that Raymond A. Delbury did not violate the Act and dismisses the allegations 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 – C61-06**

**Whereas**, the School Ethics Commission has considered the complaint and documents; and

**Whereas**, the Commission hereby dismisses the complaint; and

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

**Whereas**, the Commission agrees with the proposed decision;

**Now Therefore Be It Resolved** that the Commission hereby adopts the proposed decision to dismiss the complaint as its final decision in this matter and directs its staff to notify all parties to this action of the Commission's decision herein.

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Paul C. Garbarini, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on June 26, 2007.

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Mary E. Torres  
Acting Executive Director

PCG/MET/ethics/decisions/C61-06