



determining whether the respondents violated the Act because the complaint alleged violations of the Code of Ethics. They were also advised of their right to bring counsel and witnesses. None of the parties appeared to provide testimony. At its public meeting on January 24, 2006, the Commission voted to find that Ms. Gartland and Mr. Picardo violated N.J.S.A. 18A:12-24.1(c) and (d) of the Code of Ethics for School Board Members of the School Ethics Act in connection with their meeting with officers of the Association and voted to recommend that the Commissioner of Education impose a penalty of a two-month suspension on both respondents. After the meeting, the Commission received letters from Board members Sharon Buge and Myra Pino objecting to the penalty imposed as out of line with the offense. The Commission reconsidered its penalty recommendations in light of its prior decisions finding violations of the Code of Ethics and adopted this decision at its meeting of February 28, 2006 finding Ms. Gartland and Mr. Picardo in violation of N.J.S.A. 18A:12-24.1(c) and (d) of the Code of Ethics for School Board Members in the School Ethics Act and recommending a penalty of a one-month suspension against Ms. Gartland and a penalty of censure against Mr. Picardo.

After issuing its decision, the Commission received a letter from Board member Phyllis Helmstetter clarifying her conversations with Ms. Gartland that had been set forth in the decision. The Commission had the file pulled from the Bureau of Controversies and Disputes in order to consider the information set forth in the letter. The Commission concluded at its meeting of March 28, 2006, that the letter did not impact upon its decision, but it had to reissue a decision in order to reflect that the document had been considered.

## **FACTS**

Respondents Colleen Gartland and Carmine Picardo are members of the Board. Ms. Gartland was elected in April 2004 as the Roseland representative to the Board. She was elected President by her fellow board members in May 2005. Mr. Picardo is the Fairfield representative to the Board and was elected Vice President of the Board in May 2005. Both Board members attended new board member orientation sponsored by the New Jersey School Boards Association. Mr. Picardo attended new board member training on July 8-10, 2005.

On June 27, 2005, at a public meeting of the Board, the respondents admitted to meeting with the President and Vice President of the Association to discuss concerns that the Association brought to their attention. According to the transcript of the June meeting, Ms. Gartland indicated that they discussed their “concerns with what’s really happening in the school, with construction...” She said that nothing was determined and no promises were made. Rather, according to Ms. Gartland, she and Mr. Picardo just listened to their concerns. At that June 27, 2005 Board meeting, Mr. Picardo stated that they had the meeting to try to bring a relationship together between the Board and the teachers. He noted that there had been friction between the Board and the teachers over the last couple of years. Neither the Superintendent nor the Board had notice that such a meeting was to take place.

Patrick Pelosi, Ph.D., served as Superintendent of the West Essex School District from July 1999 to August 30, 2005. On June 27, 2005, he was made aware that the two Board members had met with two officers of the Association sometime in June prior to the Board

meeting. He was neither advised of the respondents' meeting with the Association officers nor was he invited to attend. After respondents' meeting with Association officers, respondents did not share with the superintendent any concerns brought to their attention by the Association leadership or discuss with him the contents of the meeting. The superintendent found out at the June 27, 2005 Board meeting that none of the other Board members were informed of respondents' plan to meet with the representatives either. He testified by affidavit that the decision by the respondents to meet independently with the Association officers was central to his decision to retire as he felt that their actions undermined his authority with the school faculty as Superintendent. However, Ms. Gartland counters in her answer that Dr. Pelosi told her of his plans to retire prior to the June 27, 2005 meeting, so respondents' meeting with the Association officers could not have been the basis for his decision to retire.

At the July 18, 2005 Board meeting, Mrs. Gartland read a statement in which she admitted making a mistake and asked the Board and the public to accept her apology.

At the August 22, 2005 public meeting of the Board, Board member Phyllis Helmstetter stated that she had spoken to Mrs. Gartland prior to respondents' meeting with Officers from the Association and advised Mrs. Gartland not to meet privately with the teachers. Mrs. Gartland did not deny that she had been so advised, but did deny having told Ms. Helmstetter that there would be no meeting or misleading her into thinking that the meeting had been called off. The respondents never made it clear exactly when the meeting took place or what was discussed, which is part of the difficulty with having met secretly. Rather, Mrs. Gartland states that because Ms. Helmstetter was one of eight board members, Mrs. Gartland decided not to provide her with answers about the meeting until she could respond to the full Board as a group. Mrs. Gartland said that she believed Ms. Helmstetter should not be in possession of information that other Board members did not have.

## ANALYSIS

As an initial matter, the Commission notes that complainant bears the burden of proving factually any violations of the Code of Ethics for School Board Members under N.J.S.A. 18A:12-29.

Complainants allege that Ms. Gartland and Mr. Picardo's conduct violated N.J.S.A. 18A:12-24.1(c), (d), (g) and (j) of the Code of Ethics for School Board members.

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

I will confine my board action to policy making, planning and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

By meeting with the Association officers alone without giving notice to the superintendent and the Board, the respondents did not confine their Board action to policy making, planning and appraisal. Although, according to the respondents, no policies were discussed nor plans made at this meeting, since the superintendent could be impacted by

anything discussed at the meeting, he should have been consulted prior to the meeting taking place. For the foregoing reason, the Commission finds that respondent violated N.J.S.A. 18A:12-24.1(c).

N.J.S.A. 18A:12-24.1(d) sets forth:

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.

By allowing the Association to go through the respondents directly rather than referring them to the superintendent, the respondents usurped the authority of the superintendent. Board members do not have the authority to act individually with regard to faculty members. Only the full board has authority to act when sitting as a board unless authority has been granted to a member by the full board to act individually. To meet with the Association officers without any notice to the Board or the superintendent was a failure of respondents to carry out their responsibility not to administer the schools and to work with their fellow board members to see that the schools are well run in violation of N.J.S.A. 18A:12-24.1(d).

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.

Complainant alleges that respondent Gartland failed to provide accurate information in violation of this provision by withholding information from Ms. Helmstetter when she questioned her. Respondent Picardo is not alleged to have had anything to do with the conversations with Ms. Helmstetter and therefore the Commission dismisses this allegation against him. The Commission accepts Ms. Gartland's explanation of why she did not correct Ms. Helmstetter's impression that the respondents did not meet with the Association officers. The Commission, therefore, does not find that she failed to provide accurate information or that she violated the remainder of subsection (g) as set forth above. Thus, the Commission dismisses the allegation that respondent violated N.J.S.A. 18A:12-24.1(g).

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

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

Respondents admit that they did not advise the chief administrative officer of their intent to meet with the Association officers. They further admit that they did not take any complaints to the chief administrative officer after the meeting took place. The respondents never made it clear exactly what was discussed, which highlights why complaints need to be referred to the chief administrative officer. However, the record does not demonstrate that the Association representatives necessarily had a complaint or that the catalyst for the meeting was based on an

Association complaint. Therefore, the Commission finds that the respondents did not violate N.J.S.A. 18A:12-24.1(j) by meeting with the Association officers.

## **DECISION**

For the foregoing reasons, the Commission finds that Ms. Gartland and Mr. Picardo violated N.J.S.A. 18A:12-24.1(c) and (d) of the Code of Ethics for School Board Members in the School Ethics Act.

### **Colleen Gartland**

In determining the penalty to recommend, the Commission considered that the respondent Colleen Gartland was a newly elected President of the Board. She was elected President after having served only one year on the Board. However, the Commission also considered that another more experienced board member advised Ms. Gartland not to meet with the Association representatives. Although Ms. Helmstetter clarified that Ms. Gartland told her that she had already met with the Association representatives by the time Ms. Helmstetter so advised her, the Commission finds it problematic that Ms. Gartland did not say that she had already had the meeting at the time of their conversation.

The most important relationship that a superintendent has is with the teachers' association. Therefore, it is critical that his authority with the Association not be undermined by Board members who want to be seen as sympathetic to the Association's concerns. The superintendent may have indeed indicated to Ms. Gartland his intention to retire prior to the revelation about the meeting, but up until the Board's acceptance of the resignation at the June 27, 2005 meeting, the resignation was not certain. Meetings such as the one that respondents had with the Association render the administration ineffective when Association officers feel that they can go directly to the Board. Thus, for this violation of the Code of Ethics, the Commission recommends that the Commissioner of Education impose a penalty of one-month suspension against Mrs. Gartland.

### **Carmine Picardo**

Carmine Picardo was elected to the Board in April 2005 and was elected Vice President in May 2005. He met with the Association officers in June 2005 and attended new board member training in July 2005. In Mr. Picardo's case, there is no evidence that Ms. Helmstetter or any other board member made it known to him that engaging in the meeting with the Association officers was wrong. Therefore, rather than imposing the same suspension on Mr. Picardo, the Commission believes that a censure is the appropriate penalty, similar to that imposed in IMO Kroschwitz and Sturgeon, Hamilton, C29-03 (November 25, 2003), Commissioner decision, (December 19, 2003), wherein board members were censured after having been found in violation of the Code of Ethics for circumventing the administration and making complaints public regarding the food service vendor. The Commission therefore recommends that Mr. Picardo be censured for having violated N.J.S.A. 18A:12-24.1(c) and (d) of the Code of Ethics.

This amended decision has been adopted by a formal resolution of the School Ethics Commission. This matter shall now be transmitted to the Commissioner of Education for action on the Commission's recommendation for sanction only, pursuant to N.J.S.A. 18A:12-29. Within thirteen (13) days from the date on which the Commission's decision was mailed to the parties, any party may file written comments on the recommended sanction with the Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, NJ 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the School Ethics Commission and all other parties.

Paul C. Garbarini  
Chairperson

## **Resolution Adopting Decision – C44-05**

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

Whereas, at its meeting of January 24, 2006, the Commission found that Colleen Gartland and Carmine Picardo violated N.J.S.A. 18A:12-24.1(c) and (d) of the Code of Ethics for School Board Members in the School Ethics Act and recommended that the Commissioner of Education impose a sanction of a two-month suspension for both; and

Whereas, at its meeting of February 28, 2006, the Commission reviewed additional documents submitted on behalf of the respondents and reviewed its prior decisions in which violations of the Code of Ethics had been found and voted to reconsider its penalty recommendations; and

Whereas, the Commission now adopts a draft decision with amended recommendations of a one-month suspension against Ms. Gartland and a censure against Mr. Picardo and agrees with the decision;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed amended 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.

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Paul C. Garbarini, Chairperson

I hereby certify that this amended decision was duly authorized by the School Ethics Commission at its public meeting on March 28, 2006.

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Lisa James-Beavers  
Executive Director