

accordance with N.J.A.C. 1:1-18.4. At its meeting on October 25, 2011, the Commission adopted the legal conclusions of the ALJ, as set forth below.

ANALYSIS

The complainant bears the burden of factually proving any violations of the Code of Ethics for School Board Members in accordance with the standards set forth at N.J.A.C. 6A:28-6.4(a). See also, N.J.S.A. 18A:12-29(b). Upon careful and independent review of the record, which included a transcript of the hearing conducted on June 30, 2011, together with exhibits, post-hearing briefs, as well as exception and reply arguments, the Commission finds that the record supports the ALJ's findings that the complainant failed to factually establish a violation of the Code of Ethics for School Board Members in accordance with his burden.

The Commission notes that the complainant challenges the ALJ's findings and conclusions only with respect to Count 2 in C28-10 and Count 1 in C34-10. However, these findings are sufficiently grounded in the ALJ's credibility determinations, which are entitled to the Commission's deference. N.J.S.A. 52:14B-10(c). "The reason for the rule is that the administrative law judge, as a finder of fact, has the greatest opportunity to observe the demeanor of the involved witnesses, and, consequently, is better qualified to judge their credibility. In the Matter of the Tenure Hearing of Tyler, 236 N.J. Super. 478, 485 (App. Div.) cert. denied, 121 N.J. 615 [1990]." In the Matter of the Tenure Hearing of Frank Roberts, School District of the City of Trenton, Mercer County, 94 N.J.A.R.2d (EDU) 284, 294, aff'd 95 N.J.A.R.2d (EDU) 349, aff'd App. Div. 96 N.J.A.R.2d (EDU) 549. Each of the ALJ's conclusions is consistent with her credibility determinations.

Further, to the extent the complainant contends that the ALJ failed to include a summary of all testimony, the Commission determines that the findings issued by the ALJ provide a sufficient basis for reviewing her conclusions and recommendations. In this connection, the Commission recognizes that "the ultimate determination of the agency and the ALJ's recommendations must be accompanied by basic findings of fact sufficient to support them." State, Dept. of Health v. Tegnazian, 194 N.J. Super. 435 at 442, 443. The purpose of such findings "is to enable a reviewing court to conduct an intelligent review of the administrative decision and determine if the facts upon which the order is grounded afford a reasonable basis therefore." (Id. at 443) Here, the Commission finds that the ALJ fairly summarizes the testimony and evidence. Because the Commission determines that the ALJ's factual findings provide a reasonable basis for her conclusions, there is no cause to disturb her decision.

DECISION

The Commission adopts the Initial Decision of the ALJ. 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).

Robert W. Bender, Chairperson

Mailing Date: October 26, 2011

Resolution Adopting Decision – C28-10 and C34-10 (Consolidated)

Whereas, pursuant to N.J.A.C. 6A:28-10.8(a), the Commission voted to transmit these matters to the Office of Administrative Law where they were consolidated for hearing; and

Whereas, the Administrative Law Judge concluded in her Initial Decision that the complainant failed to meet his burden to factually establish a violation of the Code of Ethics for School Board Members and, therefore, the within complaints should be dismissed; and

Whereas, the Commission considered the documentation filed in response to the ALJ's decision; and

Whereas, at its meeting of October 25, 2011, the Commission determined to adopt the Initial Decision; and

Whereas, the Commission finds that the within decision accurately memorializes its adoption of the Initial Decision;

Now Therefore Be It Resolved, the Commission hereby adopts the within decision and directs it staff to notify all parties to this action of the decision.

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at it public meeting on October 25, 2011.

Joanne Boyle, Executive Director
School Ethics Commission