

	:	BEFORE THE SCHOOL
STEPHEN J. BLEISTINE	:	ETHICS COMMISSION
	:	
	:	
v.	:	
	:	
DEBORAH CUNNINGHAM	:	
<i>SOUTH HARRISON TOWNSHIP</i>	:	Docket No. C49-11
<i>BOARD OF EDUCATION</i>	:	DECISION
<i>GLOUCESTER COUNTY</i>	:	
	:	

PROCEDURAL HISTORY

This matter arises from a complaint filed on December 5, 2011 by Stephen J. Bleistine alleging that Deborah Cunningham, a member of the South Harrison Township Board of Education (“Board”), violated the School Ethics Act (“Act”), N.J.S.A. 18A:12-21 et seq. By notice dated December 5, 2011, the complainant was notified that the complaint was deficient and, therefore, not accepted. On December 12, 2011, the complainant submitted an amended complaint, which was also deficient; by notice dated December 12, 2011, the complainant was so informed. On December 28, 2011, a second amended complaint was filed, which was accepted by the Commission. Therein, the complainant alleges that the respondent violated N.J.S.A. 18A:12-24(c) of the School Ethics Act.¹

Pursuant to notice provided to the parties by letter dated April 10, 2012, this matter was considered by the Commission at its meeting on April 24, 2012. For the reasons set forth below, the complaint was dismissed.

SUMMARY OF THE PLEADINGS

The complainant alleges that the respondent is the sister-in-law of a fourth grade teacher in the district who is also a member of the local bargaining unit. According to the complainant, the respondent attended closed session discussions relative to contract negotiations with the local bargaining unit on June 7, 2011, July 26, 2011 and August 23, 2011. However, a memorandum of agreement (MOA) was not struck between the Board and the local bargaining unit until October 28, 2011. The complainant alleges that the respondent’s participation was contrary to Advisory A14-00 and N.J.S.A. 18A:12-24(c). (Complaint at pp. 1-9) The complainant provided copies of minutes from the meetings.²

¹ It is also noted that on January 20, 2012, the complainant submitted supplemental materials.

² To the extent that the complainant alleges that the respondent violated an advisory opinion issued by the Commission, both statute (N.J.S.A. 18A:12-28(a)) and regulation (N.J.A.C. 6A:28-6.1(a)) require that any complaint filed before the Commission allege a violation *of the School Ethics Act*. Citing to an advisory opinion as a potential violation does not meet this technical requirement.

ANALYSIS

The complainant alleges that the respondent violated N.J.S.A. 18A:12-24(c) by participating in closed session discussions concerning contract negotiations with the local bargaining unit since her sister-in-law is a fourth grade teacher in the district and a member of the local bargaining unit. N.J.S.A. 18A:12-24(c) provides:

No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. 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 the School Ethics Act at N.J.S.A. 18A:12-23 defines “member of the immediate family” as the spouse or dependent child of a school official residing in the same household. Therefore, the respondent’s sister-in-law is not a member of the immediate family. Even granting that the Commission has applied this provision to “relatives” under the Act, the Act defines “relative” as a spouse, natural or adopted child, parent or sibling of a school official. Thus, the respondent’s sister-in-law is not a “relative,” as defined by the School Ethics Act. In Advisory Opinion A08-98 (June 2, 1998), the Commission advised that a Board member with a sister-in-law who was in the local bargaining unit *may participate and vote* on the contract with that unit without violating N.J.S.A. 18A:12-24(c). The Commission did not find that the public would reasonably perceive that a Board member whose sister-in-law was in the local bargaining unit would be unable to objectively negotiate. Accordingly, the Commission dismisses the within complaint for failure to state a claim that would be a violation of the Act.

DECISION

Based on the foregoing and pursuant to its discretion, the Commission dismisses the within complaint for failure to state a claim that would be a violation of the Act. N.J.A.C. 6A:28-10.2(a)7; N.J.A.C. 6A:28-10.8(a)5. This is a final decision of an administrative agency, appealable to the Superior Court, Appellate Division. See, New Jersey Court Rule 2:2-3(a).

Robert W. Bender, Chairperson

Mailing Date: May 30, 2012

Resolution Adopting Decision – C49-11

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

Whereas, at its meeting on April 24, 2012, the Commission determined to dismiss the complaint for failure to state a claim that would be a violation of the Act; and

Whereas, the Commission has reviewed and approved the decision memorializing said action;

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

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on May 29, 2012.

Joanne Boyle
Executive Director