
CHARMETTE LONG-VERNON

v.

LARRY FRASIER
PLEASAN TECH
ACADEMY CHARTER SCHOOL
ATANLTIC COUNTY

**BEFORE THE SCHOOL
ETHICS COMMISSION**

SEC Docket No. C04-12
EEC 11772-2012S
DECISION—Failure to Appear

PROCEDURAL HISTORY

This matter arises from a complaint filed on February 16, 2012 by Charmette Long-Vernon, alleging that Larry Frasier, a member of the Board of Trustees of the PleasanTech Academy Charter School violated the School Ethics Act (“Act”), N.J.S.A. 18A:12-21 *et seq.* Specifically, complainant asserted that the respondent violated N.J.S.A. 18A:12-24.1(i). By notice dated February 17, 2012, the complainant was advised that the complaint needed to be amended. An amended complaint was filed on March 2, 2012. A letter dated March 5, 2012 was sent to the respondent notifying him that the charges against him were filed with the Commission and advising him that he had 20 days to answer the complaint. A second letter dated April 3, 2012 was sent granting him to another 10 days from receipt of the letter to file his answer. Thereafter, respondent retained counsel, who filed a Motion to Dismiss in lieu of an answer on May 15, 2012. The respondent’s submission alleged that the complaint was frivolous. Complainant did not file a reply.

By letter dated June 4, 2012, the Commission notified the complainant and respondent that this matter was scheduled for discussion by the Commission at its meeting on June 26, 2012, in order to make a determination regarding the respondent’s Motion to Dismiss and allegation of frivolousness. At its meeting on June 26, 2012, the Commission voted to deny the respondent’s Motion to Dismiss the allegation that the respondent violated N.J.S.A. 18A:12-24.1(i). The Commission found that the complaint is not frivolous, in accordance with the standard set forth at N.J.A.C. 6A:28-1.2. Pursuant to N.J.A.C. 6A:28-10.8(a), the Commission also voted to transmit this matter to the Office of Administrative Law (OAL) for a hearing.

ANALYSIS

Pursuant to N.J.S.A. 18A:12-29(b) and N.J.A.C. 6A:28-6.4, it is the complainant’s burden to factually establish a violation of the Code of Ethics for School Board Members in accordance with the standards set forth in the Commission’s regulations. Where a party fails to appear for a hearing at the OAL, regulations provide the Administrative Law Judge (ALJ) with the discretion to return the case to the transmitting agency for appropriate disposition, with notice to the parties, which may result in a summary dismissal of the case. N.J.A.C. 1:1-14.4(a).

By notice dated May 21, 2013, the ALJ returned the case to the Commission, noting the complainant’s nonappearance for a scheduled telephone Status Conference on May 13, 2013 and

directing that if the complainant still wanted a hearing, she must provide an explanation to the Commission for her non-appearance, in writing, within 13 days of the notice, with copies of any such explanation to all other parties. The complainant did not respond to the ALJ's notice.

DECISION

Having noted that the complainant failed to submit an explanation for her nonappearance and noting that she bore the burden of proof in this matter, the Commission hereby dismisses the within complaint for failure to prosecute. This decision is a final decision of an administrative agency which is appealable only to the Superior Court--Appellate Division. See, New Jersey Court Rule 2:2-3(a).

Robert W. Bender, Chairperson

Mailing Date: July 31, 2013

Resolution Adopting Decision C04-12

Whereas, at its meeting on June 26, 2012, the Commission voted to transmit this complaint to the Office of Administrative Law (OAL) for a hearing; and

Whereas, after transmittal to the OAL, the complainant failed to appear for the scheduled telephone Status Conference; and

Whereas, pursuant to N.J.A.C. 1:1-14.4(a), the OAL returned the matter to the Commission, directing that the complainant provide an explanation for her failure to appear; and

Whereas, the complainant failed to provide a written explanation for her nonappearance;

Whereas, at its meeting on July 30, 2013, the Commission voted to dismiss the complaint; 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 July 30, 2013.

Joanne M. Restivo
Interim Executive Director