
**FREDERICK AND TRACY DELLAPIETRO,
GEORGE AND SHERRY DOHN,
ROBYNANN EDLER, MARK AND CARMEN
MARINO, ASHLEY MARINO, DAWN MONGUSO
AND ALFRED AND SUZANNE RICE**

v.

**STEPHANIE JENSEN
CENTRAL REGIONAL SCHOOL DISTRICT
BOARD OF EDUCATION
OCEAN COUNTY**

:
:
:
: **BEFORE THE SCHOOL
ETHICS COMMISSION**
:
:
: **Docket. No. C35-14**
:
:
: **DECISION ON MOTION
TO DISMISS**
:
:
:
:
:
:

PROCEDURAL HISTORY

This matter arises from a complaint filed on August 5, 2014 by complainants, Frederick and Tracy Dellapietro, George and Sherry Dohn¹, Robynann Elder, Mark and Carmen Marino, Ashley Marino, Dawn Monguso, and Alfred and Suzanne Rice, alleging that respondent, Stephanie Jensen, a member of the Central Regional School District Board of Education (Board), violated the School Ethics Act (Act). N.J.S.A. 18A:12-21 et seq. Specifically, the complainants allege that the respondent violated N.J.S.A. 18A:12-24(b) and (c) of the Act. The respondent filed a Motion to Dismiss in Lieu of an Answer on September 17, 2014. The complainants submitted a joint response to the Motion to Dismiss on October 9, 2014.

The parties were notified by letter dated October 10, 2014, that the School Ethics Commission (Commission) would consider this matter at its meeting on October 28, 2014, in accordance with N.J.A.C. 6A:28-10.8, to make a determination on respondent's Motion. At its meeting of October 28, 2014, the Commission voted to dismiss the complaint for lack of jurisdiction. N.J.A.C. 6A:28-10.8(a)5.

SUMMARY OF THE PLEADINGS

Complainants/parents allege that the respondent/Board member voted to retain the basketball coach even though eight team members refused to return to the team after a code of conduct investigation on this coach. The complainants contend that the loss of these team members directly benefitted the placement of respondent's daughter on the team, and the respondent was aware of the conflict at the time of the vote. Moreover, the respondent had abstained from other votes in the past, which affected her other family members. The complainants allege the Board member's action violated N.J.S.A. 18A:12-24(b) and (c) of the Act.

¹ After the filing of the Complaint, the complainants selected Sherry Dohn to speak on their behalf and to receive service of any pleadings, correspondence or trial materials.

The respondent avers that the complainants failed to assert that the respondent used her official position to secure a benefit for herself or others; therefore, she cannot have violated either subsection (b) or (c) of the Act. She does concede that the child is her daughter who lives in the household, but denies her child benefited from any unwarranted privileges. Moreover she maintains that the potential for future benefits is too speculative and illusory.

ANALYSIS

In determining whether to grant a Motion to Dismiss, the Commission shall review the facts in the light most favorable to the complainants and determine whether the allegation(s), if true, could establish a violation of the Act. Unless the parties are otherwise notified, Motions to Dismiss and any responses thereto are reviewed by the Commission on a summary basis. N.J.A.C. 6A:28-8.3. Thus, the question before the Commission is whether the complainants' alleged facts, which if true, could support a finding that the respondent violated N.J.S.A. 18A:12-24(b) and (c).

As a threshold matter, the Commission must determine whether it has jurisdiction to consider the Complaint. The Commission has jurisdiction **only** over those matters arising under the School Ethics Act. N.J.S.A. 18A:12-21 *et seq.* Consequently, the Commission is not authorized to receive, hear or consider any pleadings, motion papers or documents of any kind relating to any matter that does not arise under the Act. N.J.A.C. 6A:28-1.4(a). Accordingly, the Commission may only accept complaints alleging that a school official has violated the School Ethics Act.

A review of the Complaint reveals that the complainants conducted a code of conduct investigation of the girls' varsity basketball head coach. Since the results of the investigation are undisclosed, the Commission is left to infer that the facts alleged did not support a finding against the coach. It is clear that at the time of the vote, the coach appeared to have the full support of the Superintendent, who recommended him to the Board for the position. Based on the result of the investigation in the coach's favor, eight members of the team stated an intention to refuse to play for this coach in the 2014-2015 season. Moreover, the complaint maintains that it was the result of the complainants' investigation that led to the vote to rehire the coach. (Complaint, p.1)

The Commission determines that whatever led to the investigation of this coach, it arose from and remains solely a personal matter, and the purpose of this tribunal is not to mediate the conflict among parties in discord. If the eight players do not approve of the coach's style, then they do not have to play for the team. That is their choice; it is a personal one. If the eight players elect to withhold their time and talents, then that is their decision to make. That choice, however justified, should not be used to hold a Board hostage or interfere with appointment of school employees.

Consequently, the Commission finds, therefore, that the allegations of the Complaint are *ab initio* individual, private matters among a coach and his players and are beyond the authority of this Commission to review and redress. Thus, the Commission hereby dismisses the complaint for lack of subject matter jurisdiction.

DECISION

Based on the foregoing, and pursuant to its discretion, the Commission dismisses the within complaint for lack of subject matter jurisdiction. 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: November 26, 2014

Resolution Adopting Decision – C35-14

Whereas, the School Ethics Commission has considered the Complaint, the Motion to Dismiss filed on behalf of respondent, and the complainant's reply thereto; and

Whereas, at its meeting on October 28, 2014, the Commission determined to dismiss the complaint for lack of subject matter jurisdiction; and

Whereas, at its November 25, 2014 meeting, 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 November 25, 2014.

Joanne M. Restivo
Acting Executive Director
School Ethics Commission