

Before the School Ethics Commission
OAL Docket No.: EEC-03045-22
SEC Docket No.: C44-21
Final Decision (Settlement)

Kelly Giardina and Sharon Schueler,
Complainants

v.

John Hrevnack,
Middlesex Borough Board of Education, Middlesex County,
Respondent

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on September 21, 2021,¹ by Kelly Giardina (Complainant Giardina) and Sharon Schueler (Complainant Schueler) (collectively referred to as Complainants), alleging that John Hrevnack (Respondent),² a member of the Middlesex Borough Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* More specifically, the Complaint avers that Respondent violated *N.J.S.A.* 18A:12-24.1(a), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), *N.J.S.A.* 18A:12-24.1(g), and *N.J.S.A.* 18A:12-24.1(j) of the Code of Ethics for School Board Members (Code).

At its meeting on, March 22, 2022, and after reviewing Respondent's Motion to Dismiss in Lieu of an Answer (Motion to Dismiss) and allegation of frivolous filing, and Complainants' response thereto, the School Ethics Commission (Commission) voted to deny the Motion to Dismiss in its entirety. Based on its decision, the Commission also voted to direct Respondent to file an Answer to Complaint (Answer), and to transmit the matter to the Office of Administrative Law (OAL) following receipt of the Answer, which he filed on April 8, 2022.

At the OAL, the parties agreed to amicably resolve the matter and, on or about August 31, 2023, the parties filed a fully executed Settlement Agreement and Release. The Administrative Law Judge (ALJ) issued an Initial Decision (Settlement) dated September 8,

¹ Complainants initially filed a deficient Complaint on September 13, 2021. On September 21, 2021, Complainants cured all defects and filed an Amended Complaint (Complaint) that was deemed compliant with the requirements detailed in *N.J.A.C.* 6A:28-6.3.

² The Complaint was also filed against Michael McGinley (Respondent McGinley). However, at the Office of Administrative Law, Respondent McGinley executed a settlement of the matter. The Administrative Law Judge issued an Initial Decision approving the settlement as to Respondent McGinley and severing the case involving Respondent McGinley from the above-referenced matter. Thereafter, the Commission adopted the Initial Decision and Order to Sever.

2023, which concluded that the Settlement Agreement and Release met the requirements of *N.J.A.C. 1:1-19.1* and should be approved.

At its meeting on October 17, 2023, the Commission reviewed the Initial Decision (Settlement), and at its meeting on November 28, 2023, the Commission voted to adopt the Initial Decision (Settlement) as its Final Decision. However, the Commission also voted not to take a position on the enforceability of the parties' written Settlement Agreement and Release.

II. Analysis

In their fully executed Settlement Agreement and Release, the parties set forth the terms of their settlement. More specifically, the parties agreed, in relevant part, that neither party admits wrongdoing; the Commission shall dismiss all alleged violations of the Code against Respondent, and there shall be no penalty or other remedy imposed by the Commission and/or Commissioner of Education; the Settlement Agreement Release was "entered into freely, willingly and voluntarily, without duress or coercion, and with the opportunity for the parties to consult with representation of their choosing and at their option"; the parties acknowledge that they understand the contents of the Settlement Agreement and Release and they were given the opportunity to review it with their respective representatives; and the Settlement Agreement and Release constitutes the entire agreement and understanding between the parties and constitutes a full and final settlement relating to the dispute referenced herein. *Initial Decision (Settlement)* (attachment).

After reviewing the terms of the parties' Settlement Agreement and Release, the ALJ found:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures on the Settlement Agreement and General Release.
2. The settlement fully disposes of all issues in controversy.

Initial Decision (Settlement) at 2. Having concluded that the parties' Settlement Agreement and Release met the requirements of *N.J.A.C. 1:1-19.1* and should be approved, the ALJ ordered that the parties comply with the settlement terms. *Id.*

III. Decision

Following its review, the Commission does not find a reason why it should not defer to the parties' mutual decision to amicably resolve their dispute. The Commission adopts the *Initial Decision (Settlement)* as its Final Decision, but does not take a position on the enforceability of the parties' written Settlement Agreement and Release.

Consequently, and for the reasons more fully discussed herein, the above-captioned matter is hereby dismissed.

Robert W. Bender, Chairperson

Mailing Date: November 28, 2023

***Resolution Adopting Final Decision (Settlement)
in Connection with C44-21***

Whereas, at its meeting on March 22, 2022, the School Ethics Commission (Commission) voted to transmit the above-captioned matter to the Office of Administrative Law (OAL) following receipt of Respondent's Answer to Complaint (Answer), which was received on April 8, 2022; and

Whereas, while at the OAL, the parties submitted a duly executed Settlement Agreement and Release to the Administrative Law Judge (ALJ) for review; and

Whereas, the ALJ issued an Initial Decision on September 8, 2023, concluding that the settlement met the requirements of *N.J.A.C. 1:1-19.1* and should be approved; and

Whereas, at its meeting on October 17, 2023, the Commission considered the Initial Decision and discussed adopting the Initial Decision as its Final Decision, but not taking a position on the enforceability of the parties' written Settlement Agreement and Release; and

Whereas, at its meeting on November 28, 2023, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on October 17, 2023; and

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

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its regularly scheduled meeting on November 28, 2023.

Brigid C. Martens, Director
School Ethics Commission