

Before the School Ethics Commission
OAL Docket No.: EEC-00082-23
SEC Docket No.: C99-22
Final Decision

Richard Schumacher
Complainant

v.

Robert Pluta,
Lawrence Township Board of Education, Mercer County,
Respondent

I. Procedural History

The above-captioned matter arises from a Complaint that was filed on October 31, 2022,¹ by Richard Schumacher (Complainant), alleging that Robert Pluta (Respondent), a member of the Lawrence Township 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(g) of the Code of Ethics for School Board Members (Code) by posting about a teacher and using the teacher's name in a private Facebook group. On November 25, 2022, Respondent filed an Answer to Complaint (Answer), which included an allegation that the Complaint is frivolous.

After reviewing and considering the parties' filings at its meeting on December 20, 2022, the School Ethics Commission (Commission) voted to transmit the above-captioned matter to the Office of Administrative Law (OAL), in accordance with *N.J.A.C.* 6A:28-10.8(a),² for a plenary hearing on the alleged violation of the Code. The Commission also voted to find the Complaint was not frivolous and to deny Respondent's request for sanctions.

At the OAL, following Respondent's motion for Summary Decision, the Administrative Law Judge (ALJ) issued an Initial Decision on January 22, 2024, dismissing the matter. The parties did not file exceptions to the Initial Decision.

At its special meeting on February 27, 2024, the Commission discussed the above-captioned matter, and at its meeting on March 26, 2024, the Commission voted to adopt the

¹ On October 31, 2022, Complainant filed a deficient Complaint; however, on November 4, 2022, Complainant cured all defects and filed an Amended Complaint that was deemed compliant with the requirements detailed in *N.J.A.C.* 6A:28-6.3.

² This citation refers to the regulations in effect at the time the Complaint was filed.

Initial Decision’s findings of fact, the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24.1(g), and the dismissal of the above-captioned matter.

II. Initial Decision

In June 2021, a first grade teacher in the Lawrence Township School District (District) posted a picture of herself wearing a T-shirt that stated, “COLUMBUS WAS A MURDERER” on her public Instagram account, where it remained for months. *Initial Decision* at 3. On October 11, 2022, the same teacher wore the T-shirt during school, while she was teaching her first grade class. *Ibid.* Respondent received a text message that day about the teacher’s attire. *Ibid.* Thereafter, on that same day, Respondent “re-posted” the text on a private Facebook group, in which he is a member. *Ibid.* The Facebook post stated:

First grade teacher [redacted]³ at Ben Franklin School in Lawrence

Received this text from a teacher

“Hi! Today our new first grade team member from Slackwood had a [T]-shirt on that said: Columbus is a murderer and on the back it said: stop romanticizing genocide. [three indiscernible emojis] It’s so insane at school!”

This was today at school in front of kids . . .

[*Id.* at 3-4.]

Approximately two hours after Respondent re-posted, he removed the post from the Facebook group. *Id.* at 4. Respondent did not add any commentary to the re-post, nor did he identify himself as a Board member. *Ibid.*

The ALJ notes Complainant did not provide any evidence to show that Respondent added the teacher’s name to the re-post, or that he had an “express purpose of harassing and bullying” the teacher. *Ibid.* While Complainant alleges that the teacher was suspended from her position when the post was made, the ALJ notes “[t]here is absolutely no evidence that [the teacher] was the subject of any disciplinary action on October 11, 2022.” *Ibid.* Respondent’s re-post occurred on October 11, 2022, while the teacher was “actively teaching first grade in her self-published T-shirt,” and thus she was not suspended or on administrative leave on that date. *Id.* at 5. On October 18, 2022, seven days after the incident, the Superintendent placed the teacher on administrative leave. *Ibid.* The Board became aware of the administrative leave on the following day, and ratified the Superintendent’s decision on November 9, 2022. *Ibid.*

With respect to the alleged violation of *N.J.S.A.* 18A:12-24.1(g), the ALJ concludes Complainant’s letter-response to Respondent’s motion offers no “competent evidential material” beyond “speculation” and “fanciful arguments” that Respondent added the teacher’s name to the

³ The name of the teacher was included in the post, but will not be referenced in this decision.

re-post. *Id.* at 7. Additionally, as Complainant acknowledges in his letter response, “[t]here is no dispute that [the teacher] had *publicly available* social media posts depicting the [T-]shirt that initiated this whole matter,” the ALJ finds that he cannot also maintain that the information was not public. *Id.* at 7-8. The ALJ further finds that Complainant cannot demonstrate that the teacher was the subject of a disciplinary proceeding at the time of Respondent’s post, which is the entire basis for the allegation that the information was “confidential.” *Id.* at 8. As such, the ALJ granted Respondent’s motion for Summary Decision and dismissed the Complaint with prejudice. *Ibid.*

III. Analysis

Upon a thorough, careful, and independent review of the record, the Commission adopts the ALJ’s factual findings, legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24.1(g), and the dismissal of this matter.

As set forth in *N.J.S.A.* 18A:12-24.1(g), Board members must “hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools” and provide accurate information and interpret to the staff the aspirations of the community for its school. The Commission agrees with the ALJ that Respondent did not disclose confidential information in his Facebook re-post. A picture of the T-shirt was publicly available on the teacher’s social media account before the teacher wore the T-shirt to school. Additionally, the information that Respondent posted on social media was not obtained through confidential Board communications. Any discussion regarding disciplinary action for the teacher did not occur until a week after the teacher wore the T-shirt to school, and after Respondent’s Facebook post had already been removed. As such, the Commission finds that Respondent did not violate *N.J.S.A.* 18A:12-24.1(g).

Accordingly, the Commission agrees with the ALJ that this matter should be dismissed.

IV. Decision

Upon review, the Commission adopts the Initial Decision’s findings of fact, the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24.1(g), and the dismissal of the above-captioned matter.

Therefore, this is a final agency decision and is appealable only to the Superior Court-Appellate Division. *See, N.J.A.C.* 6A:28-9.10(b) and *New Jersey Court Rule* 2:2-3(a). Under *New Jersey Court Rule* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.

Robert W. Bender, Chairperson

Mailing Date: March 26, 2024

***Resolution Adopting Decision
in Connection with C99-22***

Whereas, at its meeting on December 20, 2022, the School Ethics Commission (Commission) voted to transmit the above-captioned matter to the Office of Administrative Law (OAL) for a hearing; and

Whereas, the Administrative Law Judge (ALJ) issued an Initial Decision dated January 22, 2024; and

Whereas, in the Initial Decision, the ALJ found that Respondent did not violate *N.J.S.A.* 18A:12-24.1(g) and ordered the dismissal of the above-captioned matter; and

Whereas, the parties did not file exceptions to the Initial Decision; and

Whereas, at its special meeting on February 27, 2024, the Commission reviewed and discussed the record, including the ALJ's Initial Decision; and

Whereas, at its special meeting on February 27, 2024, the Commission discussed adopting the Initial Decision's findings of fact, the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24.1(g), and the dismissal of the above-captioned matter; and

Whereas, at its meeting on March 26, 2024, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its special meeting on February 27, 2024; and

Now Therefore Be It Resolved, the Commission hereby adopts the within decision.

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its meeting on March 26, 2024.

Brigid C. Martens, Director
School Ethics Commission