

FACTS

The Commission finds the material facts in this case to be undisputed. Ms. Casagrande and Ms. Ciallella are members of the Spring Lake Heights Board of Education.¹ The Board consists of five members. Spring Lake Heights sends its high school students to Manasquan High School. Ms. Ciallella was at all times relevant to this complaint the President of the Spring Lake Heights Board. She is also a tenured teacher in the Manasquan School District teaching Language Arts to seventh and eighth grade students. Seventh and eighth grades are elementary grades in Manasquan.

As a result of N.J.S.A. 18A:38-8.1, Spring Lake Heights acquired a seat on the Manasquan Board of Education. The appointment of the Board member to fill that seat is made by motion and roll call vote of the Spring Lake Heights Board of Education. Prior to the vote, Susan Ciallella asked the Board attorney, Francis Campbell, Esq., to advise her of the procedures for appointing a representative to the Manasquan Board and whether she could participate in the selection process in light of her employment. Ms. Ciallella at no time had any interest in serving as the Spring Lake Heights representative. She expressed concern to the board attorney that the Board would deadlock on the appointment without her vote. Mr. Campbell advised Ms. Ciallella that he was unable to find a School Ethics Commission complaint or advisory opinion on the issue. However, he said that since a controversy over her participation was inevitable, it would be a good idea if she would abstain so as to avoid precipitating the complaint that Ms. Casagrande had already threatened to file.

According to Mr. Campbell, he discussed with Ms. Ciallella the fact that she taught on the elementary level for the Manasquan School District, and the representative of the Spring Lake Heights Board would not be voting on any issues affecting personnel other than those staff members servicing grades 9 through 12. Thus, it did not appear that there was a conflict of interest for her to vote on the appointment of a Spring Lake Heights Board member to the Manasquan board. He also advised that since Ms. Casagrande said that she would file a complaint, the School Ethics Commission will resolve the issue and the Spring Lake Heights Board would not be without a representative on the receiving district in the meantime.

The Board voted to appoint a representative to the Manasquan Board on May 19, 1997. According to the Board minutes, Mr. Preston nominated Ms. Casagrande and she seconded and Dr. Hayes nominated James Shuler and he seconded. Ms. Ciallella abstained on the motions to appoint each Board member. As Ms. Ciallella predicted, the four Board members deadlocked on the choice of a member to serve on the receiving district board. Two Board members did not want to be appointed and those who were willing to be appointed could not receive a majority of votes without participation by the Board President. Ms. Ciallella then polled the Board to determine if any of the Board members would reconsider his or her vote. All declined to reconsider, but Ms.

¹ Ms. Casagrande did not seek re-election and Ms. Ciallella did not win re-election in April 1998. Therefore, neither is a board member as of the date of the adoption of this decision.

Casagrande offered to compromise. There is no indication in the minutes of the nature of such a compromise.

In order to ensure that the Board did not go without a seat on the Manasquan Board, Ms. Ciallella then voted for Mr. Shuler. According to the minutes, the Board went on to discuss the agreement for representation on the Manasquan Board. However, after the agreement passed unanimously, Ms. Casagrande spoke about how she felt Ms. Ciallella had violated the School Ethics Act. Mr. Campbell responded by discussing his conversation with Ms. Ciallella. According to Mr. Campbell, he advised that under the School Ethics Law, there has been no case law on this point and that he and Ms. Ciallella had agreed that it would be best if she abstain. However, he told the Board that Ms. Ciallella advised him of the likelihood of a deadlock and Ms. Ciallella felt then that she had to break the deadlock. She voted since the attorney could find no case law to say that she could not.

Regarding the second allegation, Ms. Casagrande questioned Ms. Ciallella's ability to serve on the Spring Lake Heights Board while she is a teacher in Manasquan when Ms. Ciallella was first elected in April 1995. Ms. Ciallella received an opinion on the issue from the Monmouth County School Business Administrator, Barbara Pieszcynski, that she is not disqualified from serving on the Board because of her employment as a teacher in Manasquan. The opinion went on to note that she would not be able to participate in teacher negotiations, but because of her affiliation with the NJEA, not necessarily because she teaches in Manasquan. Ms. Ciallella also received an opinion from the Manasquan Superintendent, Carole Morris, that her employment in Manasquan did not force her to give up her right to a seat on the Board in her school district.

The complainant now asks the Commission to find that Ms. Ciallella violated the School Ethics Act by voting on the appointment of the representative to the receiving district. In addition, she asks the Commission to find that Ms. Ciallella violated the Act by continuing to serve on the Board of Spring Lake Heights while employed by the Manasquan school district.

ANALYSIS

The first issue before the Commission is whether respondent violated N.J.S.A. 18A:12-24(c) of the School Ethics Act by voting to appoint a representative to the Manasquan Board of Education. Ms. Casagrande argues that Ms. Ciallella participated in the vote against the advice of the board attorney who told her she most likely would be in conflict if she voted. She argues that Ms. Ciallella in effect cast the deciding vote to appoint a member to the board that employs her. She states that N.J.S.A. 18A:12-2 clearly states that a person cannot sit on a board that employs them; therefore, participating in the direct appointment of a member of the board that employs you carries with it many ethical considerations.

Respondent Susan Ciallella makes several arguments in her defense. First, she states that she is an elementary school teacher and Mr. Shuler, as representative to the receiving district, votes only on issues that pertain to the high school students and high school personnel. Second, she argues that her three-year teaching contract was in place prior to Mr. Shuler's appointment. His appointment is only for one year. Therefore, there will be no negotiations concerning her employment during Mr. Shuler's tenure as a representative to Manasquan. Third, she states that she did not vote on the appointment "contrary to the advice of the Board attorney" and encloses a letter from him. Last, she argues that she did everything she could to avoid participating in the appointment. She firmly believed and still believes that Spring Lake Heights deserved a representative on the Manasquan Board. She states that the Board fought too hard to obtain the seat to lose it because Ms. Casagrande was willing to give it up if she could not be the representative.

N.J.S.A. 18A:12-24(c) of the School Ethics Act 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 or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment.

Thus, the question is whether Ms. Ciallella had a direct or indirect financial or personal involvement that might reasonably be expected to impair her ability to objectively vote on the appointment of the representative to the Manasquan Board. Ms. Ciallella is a teacher of seventh and eighth graders in Manasquan. Pursuant to N.J.S.A. 18A:38-8.1, the representative to the receiving district can vote only on issues involving the pupils of the sending district. Since Ms. Ciallella does not teach any pupils of Spring Lake Heights, which sends grades 9 through 12, the representative will have no say over issues that affect her employment. Furthermore, even though Manasquan has one contract for teachers in grades K through 12, the Commission is satisfied that the representative for whom she voted on May 19, 1997, will have no opportunity to negotiate her employment contract. The contract is for three years and the representative's term is for one. Considering the above factors, the Commission finds that Ms. Ciallella's connection to the appointment of the representative is a remote one. It does not constitute a matter in which she has a personal or financial involvement that might reasonably be expected to impair her objectivity or independence of judgment. Thus, the Commission concludes that she did not violate N.J.S.A. 18A:12-24(c).

Complainant stresses that the representative to the Manasquan Board will have an opportunity to vote on central administration staff, including the superintendent. Thus, she argues that the representative may have an effect on the nature of her employment. Regarding this argument, the Commission notes the difference between Ms. Ciallella serving as the representative versus participating in the vote to appoint a representative. Complainant's point provides a reason that Ms. Ciallella could not serve as the representative to the Spring Lake Heights Board. Ms. Ciallella states that she never had

any interest in serving as the representative herself. However, in order to show that Ms. Ciallella's vote on the appointment was biased, the complainant would have to argue that the appointee's vote is not an independent one. Rather, it is controlled by the vote of one Spring Lake Heights Board member who voted for him along with the other Board members. The complaint does not contain, nor did the Commission's investigation reveal, any facts that could support this proposition. The representative to the Manasquan Board cannot even discuss with the Spring Lake Heights Board matters discussed in closed session meetings of the Manasquan Board, such as personnel.

Regarding the allegations under section 24(d), Ms. Casagrande again notes that the Manasquan Education Association bargains as one unit K-12. Thus, she argues that the representative to the Manasquan Board could end up across the table from Ms. Casagrande if she were to be a member of the Manasquan negotiating team. In her defense, Ms. Ciallella encloses the letters from Ms. Pieszcynski and Dr. Morris supporting her argument that she has a right to serve on the Spring Lake Heights Board. She states that she has no intention of serving on the Manasquan negotiating team.

N.J.S.A. 18A:12-24(d) provides:

No school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties.

The Commission does not believe that in creating the School Ethics Act or N.J.S.A. 18A:38-8.1, the Legislature meant to preclude teachers in receiving districts from serving on sending district boards of education. Rather, there may be restrictions on what matters the teacher may participate as a board member. For example, she may be prohibited from negotiating on behalf of the teachers' union. Such a restriction would not prohibit Ms. Ciallella from serving on the Spring Lake Heights Board of Education.

Complainant also argues that the Manasquan Board recently adopted a resolution seeking permission from the State Board of Education to allow it to include in the sending districts' tuition cost the principal of the debt for a high school addition. She states this is a clear example of Ms. Ciallella being compromised due to her employment. The Commission does not see how this raises a violation of section 24(d) of the Act. Rather, this situation is again evidence of why Ms. Ciallella should not serve as the representative to the Manasquan Board. It does not show that, as a Manasquan elementary teacher, she cannot serve as a Spring Lake Heights Board member without violating the Act.

Complainant's last argument goes to the topic of regionalization. She says that the topic is of great interest to the staff of both school districts since under a regionalization agreement, some staff positions may be reduced or eliminated. In analyzing whether a violation of section 24(d) has occurred, the Commission must consider the kinds of items upon which the board member will have to vote. However, complainant's argument is too speculative. The Boards in question are not even discussing regionalization and it is not

clear that they ever will. Therefore, the Commission cannot base a finding that Ms. Ciallella is violating section 24(d) of the Act by serving on the Spring Lake Heights Board on such an argument.

CONCLUSION

For all the foregoing reasons, the Commission concludes that respondent did not have a personal or financial involvement that would reasonably be expected to impair her objectivity in violation of N.J.S.A. 18A:12-24(c) when she voted on the appointment of the person who should be the representative to the Manasquan Board. It also concludes that Ms. Ciallella did not violate N.J.S.A. 18A:12-24(d) by serving on the Spring Lake Heights Board of Education and teaching elementary school in the Manasquan School District. It therefore finds no probable cause to credit the allegations that respondent violated the School Ethics Act and dismisses the charges against her.

This decision constitutes final agency action and thus may be appealed directly to the Appellate Division of the Superior Court.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision -- C01-98

Whereas, the School Ethics Commission has considered the pleadings filed by the parties and the documents submitted in support thereof and has considered the testimony of the parties; and

Whereas, the Commission found no probable cause to credit the allegations in the complaint that respondent violated N.J.S.A. 18A:12-24(c) or N.J.S.A. 18A:12-24(d) of the School Ethics Act; and

Whereas, the Commission has reviewed the proposed decision of its staff setting forth the reasons for its conclusion; and

Whereas, the Commission agrees with the proposed decision;

Now Therefore Be It Resolved that the Commission adopts the proposed decision referenced as its decision in this matter finding no probable cause and dismissing the complaint against Susan Ciallella.

Paul C. Garbarini, Chairman

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on May 26, 1998.

Lisa James-Beavers
Executive Director

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