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**IN THE MATTER OF**

**BEFORE THE SCHOOL  
ETHICS COMMISSION**

**ABDI GASS,  
CHESILHURST BOARD  
OF EDUCATION,  
CAMDEN COUNTY**

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**Docket No.: C13-98  
DECISION**

### **PROCEDURAL HISTORY**

This matter arises from a claim that respondent Abdi Gass violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. Specifically, Lawrence James, a member of the Chesilhurst Board of Education (Board), alleges that Mr. Gass violated N.J.S.A. 18A:12-24(c) and (d) by serving as a Board member and the Financial Consultant to the Chesilhurst Borough Government. Mr. Gass was elected to the Chesilhurst Board of Education in April 1998. He is currently the Board President.

Mr. James sets forth in his complaint that it is a conflict of interest for Mr. Gass to serve as Board President and represent the Board in financial matters and work for the Borough as a Financial Consultant. He states that on Mr. Gass's first day as Board President, he made it clear that he intends to work with the Borough Government to create a budget that the Borough can live with, not one that meets the requirement of a thorough and efficient education. As a further example of the conflict he alleges, Mr. James sets forth that on May 13, 1997, when the Board met with the Chesilhurst Borough officials to discuss the defeated 1997/98 budget, Mr. Gass represented the Borough government in the discussion with the Board. Mr. James believes that this shows that Mr. Gass is intimately involved in Borough finances and works with the Borough Treasurer on a weekly basis.

In his response to the complaint, Mr. Gass makes allegations of ethical violations against Mr. James. Since there was no separate complaint before it, the Commission did not consider these allegations against Mr. James. Regarding the specific allegations against him, Mr. Gass denied serving as a Financial Consultant to the Borough. Rather, he states that he was brought in as a consultant to computerize the Borough's operations. He considers himself a systems analyst. He states that the Borough has a Chief Financial Officer, a deputy treasurer and a municipal accountant and they handle the finances for the Borough.

The Commission found no probable cause and dismissed the complaint at its November 24, 1998 meeting.

## **STATEMENT OF FACTS**

The Commission was able to discern the following facts on the basis of the pleadings, documents, testimony and the Commission's investigation. Abdi Gass was elected to a one-year unexpired term on the Board in April 1998. Lawrence James has been a member of the Board for over ten years. Mr. Gass was previously the Business Administrator for the Chesilhurst School District. He left in November 1996 to become the Assistant Business Administrator for the Camden City School District. He is also currently serving as Consultant to the Chesilhurst Borough Government.

There are conflicting accounts as to the duties Mr. Gass performs for the Borough of Chesilhurst. Mr. James is certain that Mr. Gass handles financial matters for the Borough because of his dealings with that body after the budget was defeated in 1997. He produced a sworn statement from an employee of the Borough government that set forth that Mr. Gass was hired to clean up financial records and perform duties of the Chief Financial Officer without serving in that capacity. This person further indicated that Mr. Gass reviews payroll and bill payments before they go out. Mr. Gass testified, however, that he was hired as a consultant to computerize the Borough's operations and troubleshoot when the Borough has problems with their software and hardware. The Chief Financial Officer provided a statement that is not under oath that sets forth that Abdi Gass is responsible for keeping the Borough's computer system running. When the Commission's staff spoke to the Chief Financial Officer, however, she indicated that Mr. Gass sometimes answers questions that she has regarding bills and other financial matters, although she would not be specific. Mayor Poindexter of Chesilhurst also made an unsolicited call to the Commission and indicated that Mr. Gass works solely on computer systems. The Commission finds that if Mr. Gass worked solely on computer systems, the Chief Financial Officer would have no questions to ask him, especially not about bills. The Commission also takes note of the fact that her statement was not under oath. Thus, the Commission finds that Mr. Gass was hired to work on computer systems; however, he also assists in financial matters for the Borough utilizing his background as a School Business Administrator.

On May 13, 1997, the Board met with members of the Chesilhurst Borough Council to discuss the Board's defeated school budget. Council asked Mr. Gass to attend because there was a question about the free balance available in the school district. At this meeting, Mr. Gass was asked specifically how much free balance was available in the school district. He told the attendees that they should look at the latest annual audit report and the budget document with the help of the district's new Business Administrator. According to Mr. Gass, Council insisted on an estimate, so he gave one that was very high. The Board members then became upset with him. Mr. Gass had no other involvement in the defeated budget since independent auditors developed the rest of the information that was shared between the Board and the Council. Mr. Gass was not a member of the Board at this time.

## ANALYSIS

Mr. James asserts that Mr. Gass's conduct in serving as a Board member and Board President, while acting as Financial Consultant for the Borough of Chesilhurst violates N.J.S.A. 18A:12-24(c) and (d) of the School Ethics Act. Subsection c prohibits a school official from acting in his official capacity in a matter in which he has a direct or indirect personal or financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. Mr. James set forth that Mr. Gass participated in discussions on behalf of the Borough concerning the defeated school budget. However, Mr. Gass did so in 1997, prior to his becoming a Board member. Clearly, if he participated in budget discussions on behalf of the Borough while serving as a Board member, the Commission could find probable cause to credit the allegation that Mr. Gass acted in a matter in which he had a personal or financial involvement in violation of N.J.S.A. 18A:12-24(c). The information currently before the Commission however, does not set forth any specific matter in which Mr. Gass has acted where he had a personal or financial involvement reasonably expected to impair his objectivity since he became a Board member. Therefore, the Commission finds no probable cause to credit the allegation that Mr. Gass violated N.J.S.A. 18A:12-24(c) and dismisses that charge.

N.J.S.A. 18A:12-24(d) sets forth that:

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.

In the Commission's previous decision, *I/M/O David Fuller, C32-95*, (November 25, 1997), the Commission ruled that a Board member in the Irvington School District violated N.J.S.A. 18A:12-24(d) of the School Ethics Act by serving as Business Administrator for Irvington Township. The Commission must now ascertain whether Mr. Gass has responsibilities for preparing the Borough's budget as Mr. Fuller did. Having reviewed the available information, the Commission finds that Mr. Gass's duties and responsibilities are distinguishable from those of Mr. Fuller.

Although the Commission finds that Mr. Gass does serve as a consultant on some financial matters for the Borough, the Commission does not believe that his work on such matters rises to the level to prohibit him from being objective in his duties as a Board member. The Commission can only establish that he assists the Chief Financial Officer in bill payments and payroll. His duties with respect to the 1997 defeated school budget are not clear. Mr. Gass says he was asked to be there to answer questions about the free balance since he was the Business Administrator for the Board the year before. Mr. James said that Mr. Gass was there as a representative of the Borough. The Commission is constrained to find that he commented as to matters concerning the Board's financial

picture from when he served as Business Administrator. There is insufficient information to establish that Mr. Gass had or will ever have the responsibility for recommending changes in the Board's budget in the event of a budget defeat. Thus, Mr. Gass's responsibilities are not of the type that one might reasonably expect to prejudice a board member's independence of judgment in the exercise of his official duties.

However, if Mr. Gass does gain such responsibility in his amorphous title as Borough Consultant, it would create a conflict of interest with his duties as a Board member in violation of N.J.S.A. 18A:12-24(d). In addition, because he is a consultant to the Borough, Mr. Gass has an indirect financial involvement with the Borough that may create a conflict in violation of N.J.S.A. 18A:12-24(c) on certain issues on which the Borough and the Board may be adversarial or have competing interests. This conflict may be cured by his abstention from such matters. Thus, even if he is not responsible for recommending changes in the Board's defeated budget, he should never be negotiating with the Borough as a Board member. The Commission reiterates, however, that this requirement that he abstain from discussions on the Board's budget does not create a conflict of interest with respect to all issues such that he cannot hold both positions. Thus, he can serve in both capacities, but he is restricted from participating in matters involving the Borough to the extent that the interests of the Board and the Borough diverge.

## **DECISION**

For the foregoing reasons, the Commission finds no probable cause to credit the allegations that Mr. Gass violated N.J.S.A. 18A:12-24(c) and (d) by serving as a Consultant to Chesilhurst Borough and a Chesilhurst Board member based on his job responsibilities and dismisses the complaint against Abdi Gass. However, as set forth above, the Commission requires that Mr. Gass refrain from participating in matters in which the Borough and the Board have conflicting or competing interests such as budget appeals. Failure to adhere to this restriction may result in further proceedings consistent with this opinion.

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

Paul C. Garbarini  
Chairperson

**Resolution Adopting Decision – C13-98**

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

Whereas, the Commission now finds no probable cause to credit the allegation that Mr. Abdi Gass violated the School Ethics Act and dismisses the complaint against him; and

Whereas, the Commission has reviewed the proposed decision of its staff; and

Whereas, the Commission agrees with the proposed decision;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision referenced as its decision in this matter and directs its staff to notify all parties to this action of the Commission's decision herein.

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Paul C. Garbarini, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on November 24, 1998.

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Lisa James-Beavers  
Executive Director