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**IN THE MATTER**

**OF**

**TRINA BYRD,  
PLEASANTVILLE  
BOARD OF EDUCATION,  
ATLANTIC COUNTY**

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**BEFORE THE  
SCHOOL ETHICS COMMISSION**

**Docket No.: C23-97**

**DECISION**

### **PROCEDURAL HISTORY**

The above-captioned matter arises from a complaint filed by Thomas Getzke on August 7, 1997 alleging that Pleasantville Board of Education member Trina Byrd violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. Specifically, he alleges that Ms. Byrd brought a Job Training Partnership Act (JTPA) program to the school system, the lunch program of which resulted in monetary remuneration for her father and then sister. He alleges that aspects of the program were subcontracted to Ms. Byrd's husband. This and other related conduct, he states, violated N.J.S.A. 18A:12-24(a), (b), (c) and (d). On August 27, 1997, in response to a request from the School Ethics Commission, Mr. Getzke clarified his complaint. He believes that Ms. Byrd violated the School Ethics Act by bringing the proposal for the program to the Board on June 9, 1997, answering questions about it, moving to approve it and voting in favor of it on June 24, 1997, because her family had ties to Worldwide Educational Services, Inc., the company seeking to lease the facilities.

Ms. Byrd filed an answer denying that she violated the School Ethics Act and setting forth that the program did not result in any cost to the district and it was a great opportunity for the students in the community.

### **FACTS**

From the pleadings, documents submitted and the Commission's investigation, the Commission was able to discern the following facts. At all times relevant to this complaint, Trina Byrd was a member of the Pleasantville Board of Education. On June 9, 1997, Ms. Byrd inquired about an application from Worldwide Educational Services, Inc., a private education group, to utilize school facilities during the summer of 1997. The company receives funds to run training programs for youth pursuant to the JTPA. The company had requested and received permission to use the school facilities for three years prior to the present application. Ms. Byrd distributed a proposal concerning this program

to Board members. On June 24, 1997, Ms. Byrd requested that the Board approve Worldwide's use of district facilities outlined in the proposal. The proposal requests use of the Leeds Avenue School's second floor classrooms and office from July 1, 1997 to August 22, 1997. The space would be used from 7:45 a.m. to 2:15 p.m. Monday through Friday for a private industry council summer youth program for "entrepreneurial training with academic and employability skills enhancement." The program would not charge the participants admission and would service approximately 100 students. Ms. Byrd voted in favor of allowing Worldwide to use the district's space and the motion passed by a vote of five in favor, two against and two abstentions. One of the abstentions was that of Board member Eleanor Getzke, the complainant's spouse.

On June 30, 1997, the Interim Superintendent of the Pleasantville School District drafted a letter to Worldwide confirming that the Board had approved its request for use of district space at a fee of \$2,000 per month for a total of \$4,000 to be paid to the Pleasantville Board. According to the district's facility use policy and fee schedule, educational activities sponsored by organizations for the benefit of the district or community are charged according to the community rate. In the summer of 1997, this was \$13.00 per hour for classrooms. The Commission was advised by the administration that Worldwide's fee was based on the fee that they were charged in 1996, which was set by the former superintendent who is now retired and unavailable for questioning.

Ms. Byrd's husband was an employee of Worldwide up until 1996. His resume indicates that he was an assistant director and hardware technician who maintained and repaired computer-training sites. He was not so employed in the summer of 1997. When Worldwide conducts its program, it must provide lunch to the participants. In the past, Worldwide contracted with Ms. Byrd's father to provide lunches to the participants. The Commission's investigation disclosed that her father provided food services to the participants on a limited basis in 1997.

## **ANALYSIS**

Mr. Getzke has alleged that Ms. Byrd violated N.J.S.A. 18A:12-24(a), (b), (c) and (d) in connection with the above facts. Subsection (a) sets forth:

No school official or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.

Pursuant to N.J.S.A. 18A:12-23 of the School Ethics Act, an "interest in a business organization" is defined as ownership or control of over 10% of the profit, assets or stock of a business. Neither Ms. Byrd nor any member of her immediate family has such an interest in Worldwide. Therefore, a violation of subsection (a) must be based on a showing that Ms. Byrd or her spouse engaged in a business, transaction or professional

activity, which is in substantial conflict with the proper discharge of her duties in the public interest. The question thus becomes, what did she or Mr. Byrd do that was in substantial conflict with the discharge of her duties as a Board member. In the summer of 1997, Ms. Byrd's husband was no longer employed by Worldwide, nor was she affiliated with Worldwide in any manner that could be described as engaging in a business, transaction or professional activity with it. A violation of subsection (a) would require Ms. Byrd to either give up her Board membership or give up her ties to Worldwide. At the time of the 1997 and presently, she has no such ties to Worldwide that she has to relinquish. For the foregoing reasons, the Commission finds no probable cause to credit the allegations that respondent violated N.J.S.A. 18A:12-24(a).

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

No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family, or others.

The facts before the Commission show that Worldwide had conducted this summer youth program for the past four years. Each time they leased space according to the Board's facilities use policy. They received no more from the Board than any other organization seeking to use the Board's facilities. The Commission has no information to indicate that the Board waived any usual requirements to allow Worldwide to lease the space, nor provided it with any privileges that it did not give to other organizations. Ms. Byrd did bring the proposal to the Board's attention, but she did not seek any unwarranted privileges or advantages for the organization by doing so. Indeed, there is no allegation that she did, only that she had connections to Worldwide that may have precluded her from bringing such a matter before the Board. This suggests that subsection c is more applicable to the present facts.

Section 24(c) of the School Ethics Act prohibits a school official from acting in his official capacity in any matter where she, a member of her immediate family, or a business organization in which she has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair her independence of judgment. As set forth above, neither Ms. Byrd nor her spouse had an "interest" in Worldwide under the Act. Also, at the time she brought the proposal to the attention of the Board, her spouse no longer had a financial or personal involvement with Worldwide. Thus, the question remaining is whether Ms. Byrd had a direct or indirect financial or personal involvement such that she should not have brought the proposal to the attention of the Board or discussed and voted upon it. The Commission's investigation disclosed that Ms. Byrd ceased working for Worldwide years prior to the application in question. However, her father did provide food services to the program assisted by Ms. Byrd's sister. Thus, Mr. Getzke seeks a ruling that Ms. Byrd violated N.J.S.A. 18A:12-24(c) by voting for a company's application to lease facilities from the Board when that company uses her father as a subcontractor.

In another case involving an application to use district facilities, the Commission found Board member Rodney Bond in violation of N.J.S.A. 18A:12-24(c) for appearing as sponsor of an application to use the Asbury Park Board of Education's facilities for a concert and then voting to approve the application after being elected to the Board. *In the Matter of Rodney Bond*, SEC #C21/24-96 (July 22, 1997). The Commission finds this case to be distinguishable from Ms. Byrd's situation. Rodney Bond was clearly a principal sponsor of the concert application despite his attempt to remove himself from the application on the day of the vote to approve it. The Commission noted that Mr. Bond had just appeared in front of the Board to advocate for the concert and then attempted to move it forward after gaining a seat on the Board. It also noted that Mr. Bond maintained his close ties to the sponsor despite the removal of his name from the application.

Ms. Byrd had no such ties to Worldwide's request at the time of the 1997 vote. She was never a sponsor of the application and she and her husband were no longer employed or subcontracted by Worldwide. The fact that Worldwide chose to contract with Ms. Byrd's father to provide the food services does not constitute even an indirect financial involvement with the application on Ms. Byrd's part. Similarly, even if Ms. Byrd can be argued to have an indirect personal involvement, it is not of the type which one might reasonably expect to impair her objectivity since Worldwide's application is solely for the use of classroom space. The Board has no say in nor involvement with whomever Worldwide chooses to provide its services necessary to run its program. Thus, Worldwide's choice of Ms. Byrd's father to provide lunches does not create the type of conflict that constitutes a violation of subsection c. The Commission also notes that the request for use of the school facilities in the *Bond* case was an initial proposal and not a continuance of a practice that had been going on for three years prior to the application on which the complaint was based. The Commission therefore finds no probable cause to credit the allegations that respondent violated N.J.S.A. 18A:12-24(c).

Last, Mr. Getzke alleges that Ms. Byrd's conduct violated N.J.S.A. 18A:12-24(d) of the Act. This provision sets forth:

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 finds this provision to be inapplicable to the present case. Ms. Byrd is not undertaking any employment or service according to the allegations set forth in the complaint. Rather, the allegations center upon her familial connection to Worldwide. The complaint indicates that Ms. Byrd had previously been employed by Worldwide and may have previously served as a subcontractor of lunch services for Worldwide, but the complaint provides that she no longer serves in either capacity. Even if she were, her doing so would not constitute employment or service which might reasonably be expected to prejudice her independence of judgment in violation of subsection d when Worldwide is not providing services to the Board, but only leasing space from the Board.

## **CONCLUSION**

For the foregoing reasons, the Commission finds no probable cause to credit the allegations that Ms. Byrd violated N.J.S.A. 18A:12-24(a), (b), (c) or (d) of 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 -- C23-97**

**Whereas**, the School Ethics Commission has considered the pleadings filed by the parties, the documents submitted in support thereof and the findings from its investigation; and

**Whereas**, the Commission finds no probable cause to credit the allegation that respondent violated N.J.S.A. 18A:12-24(a), (b), (c) or (d) of the School Ethics Act; and

**Whereas**, the Commission has reviewed the proposed decision of its staff dismissing the complaint; 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 July 30, 1998.

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Lisa James-Beavers  
Executive Director

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