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FRANCIS A. D’ALESSANDRO	:	ETHICS COMMISSION
	:	
v.	:	
	:	
EILEEN SONNIER	:	Docket No. C08-06
ASBURY PARK	:	
BOARD OF EDUCATION	:	DECISION
MONMOUTH COUNTY	:	
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JOHN NAPOLITANI, GREGORY	:	ETHICS COMMISSION
PAVLIV and PAUL MURPHY	:	
	:	
v.	:	
	:	
EILEEN SONNIER	:	Docket No. C15-06
ASBURY PARK	:	
BOARD OF EDUCATION	:	DECISION
MONMOUTH COUNTY	:	
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KATHRYN A. MEMOLI and	:	ETHICS COMMISSION
SUSAN M. BISAHA	:	
	:	
v.	:	
	:	
EILEEN SONNIER	:	Docket No. C16-06
ASBURY PARK	:	
BOARD OF EDUCATION	:	DECISION
MONMOUTH COUNTY	:	
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PROCEDURAL HISTORY

This matter arises from three complaints filed against Eileen Sonnier, a member of the Asbury Park Board of Education (Board), alleging that Mrs. Sonnier violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. The first complaint, C08-06, was filed on April 3, 2006, by Francis A. D’Alessandro, also a member of the Board, alleging that Mrs. Sonnier violated N.J.S.A. 18A:12-24(a) and N.J.S.A. 18A:12-24.1(a), (g), (i) and (j) because she is a principle of an organization called “People of Faith for Good Government” (PFGG), which published and distributed a community newspaper that contained personal attacks on the character and competence of two Asbury Park School District (District) administrators and also included attacks on other school officials. Mr. D’Alessandro also alleges that the publication included information not available to the general public, but known to Mrs. Sonnier as chairperson of the Board’s Personnel Committee. Mr. D’Alessandro also alleges that Mrs. Sonnier violated N.J.S.A. 18A:12-

24(b) because her daughter was hired as a full time confidential secretary and her daughter had been previously employed in the District as a classroom teacher's aide.

The second complaint, C15-06, was filed on May 31, 2006, by John Napolitani, Gregory Pavliv and Paul Murphy alleging that Mrs. Sonnier violated N.J.S.A. 18A:12-24.1(g), (i) and (j) because she published or substantially contributed to a community newspaper that made allegations against the Asbury Park Education Association (Association) and against District administrators, teachers and members of the Board. The Commission notes that the complaint was originally filed with the Asbury Park Education Association listed as a complainant. However, N.J.S.A. 18A:12-29(e) limits the filing of complaints to "any person." Since the Association is an organization and not a person, the Commission did not consider the Association as a complainant.

The third complaint, C16-06, was filed on June 5, 2006, by Kathryn A. Memoli and Susan M. Bisaha alleging that Mrs. Sonnier violated N.J.S.A. 18A:12-24.1 (e), (g) and (i) when she authored a community newspaper from her home address, which contained derogatory and defaming commentary against school personnel. Ms. Memoli and Ms. Bisaha also alleged that Mrs. Sonnier violated the District's policy on nepotism because her daughter is employed as a secretary.

Mrs. Sonnier filed a similar response to all three complaints, in which she denied that she violated the Act and asked the Commission to find that the complaints were frivolous and sanction the complainants. Mrs. Sonnier denied that she published or in any way contributed to the community newsletter to which the complainants refer. Mrs. Sonnier answered that her husband publishes and writes the newsletter and that she does not participate in the writing or publishing of his newsletters.

The Commission originally scheduled a hearing on C08-06 for its June 27, 2006 meeting, but, due to the filing of C15-06 and C16-06, which contained allegations arising from the same conduct, the Commission rescheduled the hearing until its August 22, 2006 meeting so that all the matters could be consolidated and heard together. Due to a scheduling conflict for an attorney for the complainants, the matters were rescheduled for a hearing at the Commission's September 26, 2006 meeting. The Commission invited, but did not require the parties to attend and advised the parties of their right to bring counsel and witnesses. The complainant in C08-06, Mr. D'Alessandro, and his attorney James T. Hundley, Esquire, attended the hearing and Mr. D'Alessandro testified before the Commission. The complainants in C15-06, Mr. Napolitani and Mr. Murphy, and their attorney, Richard A. Friedman, Esquire, attended the hearing. Complainant Mrs. Sonnier and her husband, Joseph Sonnier, attended the hearing and both testified before the Commission.

Prior to hearing the testimony, the Commission advised both parties that it was dismissing the allegation in C08-06 and C16-06 that Mrs. Sonnier violated N.J.S.A. 18A:12-24(b) in connection to the Board's employment of her daughter since the complaint was filed outside of the limitation set forth at N.J.A.C. 6A:28-6.1(b). Mrs. Sonnier's daughter was hired by the Board at the November 18, 2004 Board meeting and

both of the complaints were not filed within one-year of notice of the alleged violation as required by N.J.A.C. 6A:28-6.1(b). All parties agreed to the dismissal of the allegation.

At its meeting on October 24, 2006, the Commission voted to find no probable cause to credit the allegation that Mrs. Sonnier violated N.J.S.A. 18A:12-24(a) and to find that Mrs. Sonnier did not violate N.J.S.A. 18A:12-24.1(a), (e), (i), (g) and (j) of the Code of Ethics for School Board Members. The Commission also voted to find that the complaint was not frivolous and to adopt this decision.

FACTS

The Commission was able to discern the following facts based on the pleadings, testimony and the documents submitted.

Mrs. Sonnier is a member of the Board and is chairperson of the Board's Personnel Committee. Mr. D'Alessandro was elected to the Board in 2004 and serves as an alternate on the Personnel Committee.

Mrs. Sonnier lives in Asbury Park with her husband, Joseph Sonnier. Mr. Sonnier is unemployed and publishes and distributes a newsletter through PFGG from the address in Asbury Park, which is Mr. and Mrs. Sonnier's home residence. Mr. Sonnier testified that he is the only officer of PFGG and he alone writes, publishes, and distributes the PFGG newsletters from the Sonniers' home residence. The newsletters are distributed throughout the Asbury Park community. Mr. D'Alessandro testified that the newsletters were delivered to his home. Both Mr. and Mrs. Sonnier testified that Mrs. Sonnier does not contribute to the newsletter in any manner including financially. Mr. Sonnier testified that he receives donations to publish the newsletter. While PFGG is managed from the Sonniers' home residence, Mr. Sonnier testified that there is a separate phone line, (732) 755-4751, with an answering machine for PFGG. Mr. Sonnier testified that he never answers that phone line or the home phone line. He testified that he listens to the PFGG answering machine. The PFGG phone number is published in the "While You Were Sleeping" newsletters. Mr. Sonnier testified that he is the only person at the Sonniers' residence who listens to the answering machine for the PFGG phone line. The Commission notes that after the hearing at the Commission's September 26, 2006 meeting, the Commission called the number (732) 755-4751 and there was no answering machine on which to leave a message. The phone was unanswered at that time.

Sometime in May 2006, Mr. Sonnier published two newsletters entitled "While You Were Sleeping." One was identified as volume 2 issue 2, 2006 and the other was identified as volume 2 issue 3, 2006. Mr. Sonnier testified that those identifications had no significance. He also testified that he was unaware as to when he began publishing the newsletters and he was unaware as to how many newsletters he has published for PFGG. Both newsletters include commentary regarding the Board, the District and its administrators, teachers and the Association. Much of the commentary is of a derogatory and critical nature. Mr. Sonnier testified that he obtains his information from the "victims" and that he never has obtained information from Mrs. Sonnier. In "While You

Were Sleeping” volume 2 issue 2, 2006, the first page provides the following commentary: “Middle school students ask where are the pianos where are the choir robes and was the money ever in the safe.” Mr. D’Alessandro certified that the incidents with the pianos, robes and missing funds were only discussed in executive session and were never discussed in public. Mr. D’Alessandro further certified that the Board ultimately determined that a theft was not involved.

ANALYSIS

Mr. D’Alessandro alleges that Mrs. Sonnier violated N.J.S.A. 18A:12-24(a) because she was a principal of PFGG, which published and distributed community newsletters that contained attacks on District administrators and other school officials and also included confidential information. N.J.S.A. 18A:12-24(a) provides:

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;

In order to find probable cause that Mrs. Sonnier violated N.J.S.A. 18A:12-24(a), the Commission must first determine if she has an interest in PFGG. The term “interest” is defined at N.J.S.A. 18A:12-23 as meaning, “the ownership or control of more than 10 percent of the profits, assets, or stock of a business.” The Commission can find no evidence that Mrs. Sonnier held an interest in PFGG. The Commission must next determine if Mrs. Sonnier engaged in any business, transaction or professional activity, which is in substantial conflict with the proper discharge of her duties in the public interest. Mr. D’Alessandro alleges that Mrs. Sonnier was involved with PFGG in the publication of the newsletters, which was an activity that was in substantial conflict with the proper discharge of her duties in the public interest. The Commission has not been presented with any evidence to show that Mrs. Sonnier was actively involved in PFGG. Both Mrs. and Mr. Sonnier testified that Mrs. Sonnier was not involved in any manner with PFGG. Based on the foregoing, the Commission finds no probable cause to credit the allegation that Mrs. Sonnier violated N.J.S.A. 18A:12-24(a).

Mr. D’Alessandro next alleges that Mrs. Sonnier violated N.J.S.A. 18A:12-24.1(a), which provides:

I will uphold and enforce all laws, rules and regulations of the State Board of Education and court orders pertaining to the schools. Desired changes shall be brought about only through legal and ethical procedures.

The Commission initially notes that, pursuant to N.J.S.A. 18A:12-29, the complainant bears the burden of factually proving any violations of the Code of Ethics for School Board Members. To prove a violation of N.J.S.A. 18A:12-24.1(a), Mr. D’Alessandro alleges that because Mrs. Sonnier was a principal of PFGG, which

published and distributed community newsletters that contained attacks on District administrators and other school officials and also included confidential information, she failed to uphold and enforce all laws, rules and regulations of the State Board of Education and court orders pertaining to the schools. However, absent a determination from a court of law or an administrative agency of this State finding that Mrs. Sonnier failed to enforce all laws, rules and regulations of the State Board of Education, or court orders pertaining to schools, or a finding that she attempted to bring about changes through illegal or unethical procedures, the Commission cannot find that the Mrs. Sonnier violated N.J.S.A. 18A:12-24.1(a). The Commission has not been presented with any evidence to factually prove that Mrs. Sonnier failed to enforce all laws, rules and regulations of the State Board of Education, or court orders pertaining to schools, or that she failed to bring about changes only through legal and ethical procedures. Therefore, the Commission finds that Mrs. Sonnier did not violate N.J.S.A. 18A:12-24.1(a) and dismisses this allegation.

Complainants Ms. Memoli and Ms. Bisaha allege that Mrs. Sonnier violated N.J.S.A. 18A:12-24.1(e), of the Code of Ethics for School Board Members. N.J.S.A. 18A:12-24.1(e) provides:

I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

The complainants allege that Mrs. Sonnier violated N.J.S.A. 18A:12-24.1(e) because she took private action that compromised the integrity of the Board by her knowledge and/or distribution of the community newsletters that contained derogatory and defaming commentary against school personnel. The Commission has not been presented with any factual evidence to prove that Mrs. Sonnier was involved in the distribution of the community newsletters. Mrs. Sonnier may have had knowledge of the distribution, but knowledge alone does not rise to the level of private action. In order to prove that Mrs. Sonnier took private action, the complainants must show that she took an action, not that she had knowledge of an action taken by her husband. The Commission has not been presented with any evidence to factually prove that Mrs. Sonnier took private action that may compromise the Board. Therefore, the Commission finds that Mrs. Sonnier did not violate N.J.S.A. 18A:12-24.1(e) and dismisses this allegation.

The complainants in all three of the complaints allege that Mrs. Sonnier violated N.J.S.A. 18A:12-24.1(g), which provides:

I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

To prove a violation of N.J.S.A. 18A:12-24.1(g), the complainants allege that Mrs. Sonnier revealed confidential information in the newsletter, which, if disclosed, would needlessly injure individuals or the schools. Mr. D'Alessandro certified that the incidents regarding pianos, robes and missing funds were only discussed in executive session and were never discussed in public. However, in volume 2 issue 2, 2006, of "While You Were Sleeping," the issues of the pianos, robes and missing funds were published on the first page. Mr. Sonnier testified that he got his information for the commentary in the newsletter from the "victims." The Commission has not been presented with any factual evidence to show that Mr. Sonnier got information regarding the pianos, robes and missing funds from Mrs. Sonnier and not from any one else. Therefore, the Commission finds that Mrs. Sonnier did not violate N.J.S.A. 18A:12-24.1(g).

The complainants in all three of the complaints allege that Mrs. Sonnier violated N.J.S.A. 18A:12-24.1(i), which provides:

I will support and protect school personnel in proper performance of their duties.

To prove a violation of N.J.S.A. 18A:12-24.1(i), the complainants allege that Mrs. Sonnier's knowledge and or publication of the newsletter does not support and protect school personnel in proper performance of their duties. The Commission has not been presented with any factual evidence to prove that Mrs. Sonnier was involved in the publication of the community newsletters. Again, as noted above, knowledge that her husband was publishing a newsletter containing derogatory and critical commentary of school personnel does not prove a violation of N.J.S.A. 18A:12-24.1(i). The Commission does not believe that N.J.S.A. 18A:12-24.1(i) imposes an affirmative duty on Mrs. Sonnier to stop her husband from publishing information derogatory to school personnel. Based on the foregoing, the Commission finds that Mrs. Sonnier did not violate N.J.S.A. 18A:12-24.1(i), and dismisses this allegation.

Last, the complainants in C08-06 and C15-06 allege that Mrs. Sonnier violated N.J.S.A. 18A:12-24.1(j), which provides:

I will refer all complaints to the chief school administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

The complainants allege that Mrs. Sonnier violated N.J.S.A. 18A:12-24.1(j) because she did not refer the complaints that were contained in the community newsletters to the chief school administrator. However, there is no evidence to show that the complaints published in the community newsletters were shared with Mrs. Sonnier. Mr. Sonnier testified that he received information from the "victims." If Mrs. Sonnier was unaware of the complaints, then she was under no obligation to share anything with the chief school administrator. The Commission was not presented with any evidence to factually prove that Mrs. Sonnier failed to refer all complaints to the chief administrative

officer and act on complaints at public meetings only after failure of an administrative solution. Therefore, the Commission finds that Mrs. Sonnier did not violate N.J.S.A. 18A:12-24.1(j) and dismisses this allegation.

REQUEST FOR SANCTIONS

Mrs. Sonnier has asked that the Commission find that the complaint was frivolous and impose sanctions pursuant to N.J.S.A. 18A:12-29(e). In order to find that a complaint, counterclaim, cross-claim or defense of the nonprevailing party was frivolous, the Commission must find on the basis of the pleadings, discovery, or the evidence presented that either:

- 1) The complaint...was commenced, used or continued in bad faith, solely for the purpose of harassment, delay or malicious injury; or
- 2) The nonprevailing party knew, or should have known, that the complaint...was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law. [N.J.S.A. 2A:15-59.1]

Mrs. Sonnier argues that the complaints were filed as an attempt to intimidate, threaten and retaliate against her family for the publication of her husband's newsletters. There were three complaints filed against Mrs. Sonnier with complainants ranging from Board members to school personnel to Asbury Park citizens. It is apparent to the Commission, that the complainants filed the complaints because of their concerns regarding the newsletter and its impact on the Board and the District. There is no evidence that the complainants filed the complaints in bad faith, solely for the purpose of harassment, delay or malicious injury. It is also apparent that the complainants' all believed that Mrs. Sonnier participated in the publication and distribution of the newsletters. Thus, the complainants' believed that their complaints had a reasonable basis in law. There is no evidence to show that complainants' knew that the complaints were without any reasonable basis in law. Therefore, the Commission finds that the complaint was not frivolous and denies Mrs. Sonnier's request for sanctions against the complainant.

DECISION

For the reasons expressed above, the Commission finds no probable cause that Mrs. Sonnier violated N.J.S.A. 18A:12-24(a). The Commission further finds that Mrs. Sonnier did not violate N.J.S.A. 18A:12-24.1(a), (e), (i), (g) and (j) of the Code of Ethics for School Board Members.

This decision is a final decision of an administrative agency. Therefore, it is appealable only to the Superior Court--Appellate Division. See, New Jersey Court Rule 2:2-3(a).

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C08-06, C15-06 & C16-06

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

Whereas, at its meeting of October 24, 2006, the Commission found no probable cause that Mrs. Sonnier violated N.J.S.A. 18A:12-24(a) and found that Mrs. Sonnier did not violate N.J.S.A. 18A:12-24.1(a), (e), (i), (g) and (j) of the Code of Ethics for School Board Members; and

Whereas, at its meeting of October 24, 2006, the Commission reviewed a draft decision prepared by its staff and agrees with the 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.

Paul C. Garbarini, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on October 24, 2006.

Lisa James-Beavers
Executive Director