



The respondent has been a member of the Board for six years. At all times relevant to this complaint, respondent was a member of the Board. He currently serves as Board President. Respondent has been employed in the Hazlet Police Department for 25 years and is currently a detective. The respondent has also been active in the local Police Benevolent Association (PBA). The complainants are parents of two students who attend the high school in the Hazlet School District (District) and were members of the football team. Ms. LaPrete has been superintendent of the District for the past five years. Prior to that, she was an assistant superintendent for six years. Ms. LaPrete has worked in education for 32 years. Ms. Rafter is the principal of the District's High School and is the District's liaison with the Hazlet Police Department. Mr. Broderick is the Chief of Police in Hazlet. Mr. Charles McBride is a detective sergeant with the Hazlet Police Department and is the Hazlet Police Department-School Liaison Officer. There is a memorandum of agreement (MOA) between the District and the Hazlet Police Department that sets forth how criminal matters that involve students are to be handled.

On or about late July 2005, the complainants' sons, M.H. and D.V. were involved in an incident with the Union Beach Police. The police officers claimed to have observed them throwing marijuana into a creek. They were taken into custody and questioned by the police. Both were subsequently released and no charges were filed. D.V. was identified as living in Raritan and M.H. was identified as living in Keansburg.

Sometime in late July 2005, because of his activity in the PBA, the respondent was contacted by the Union Beach Police Department and was told that the Department had a Hazlet Police Officer's PBA card. Respondent went to the Union Beach Police Department to retrieve the PBA card and asked how they got the card. Respondent was informed that the card was obtained from D.V.

Sometime in August 2005, respondent was assigned to investigate an incident involving members of the District's football team. Upon investigation of the August 2005 incident, respondent learned that D.V. was involved. In furtherance of his investigation, he called the Union Beach Police Department to determine if the July 2005 incident involving D.V. was related in any way to the August 2005 incident. Respondent was given a copy of the July 2005 report from the Union Beach Police Department. The report revealed that the July 2005 incident involved controlled dangerous substances. Respondent certified that he gave the report of the July 2005 incident to his supervisor and had no further involvement with the July 2005 incident.

There was testimony from both complainant, Mrs. Valenti, and respondent that, sometime between August 23, 2005 and September 12, 2005, Mrs. Valenti met with the respondent and Mr. McBride. At that meeting, the respondent waived a folder and told Mrs. Valenti that the information in the folder could hurt her son. The respondent testified that the information in the folder was about the August 2005 incident.

Ms. Rafter testified that Mr. McBride called her to inform her that D.V. and a Keansburg student were involved in an incident in July 2005 where they were picked up

by the Union Beach Police, questioned and let go. About one half hour after Ms. Rafter received the call from Mr. McBride, Ms. LaPrete called her to discuss the incident and asked Ms. Rafter what she knew about football players getting arrested. Ms. LaPrete asked if Ms. Rafter was aware of the incident, and, if so, then why was she, “brushing it under the rug.” Ms. LaPrete indicated that an officer was with her in the office. Ms. Rafter then testified that she called Mr. McBride to find out why his account of the incident was different from Ms. LaPrete’s account of the incident. Mr. McBride said that D.V. and the Keansburg student were not arrested and he would, “straighten out why” the information Ms. LaPrete had was different. Ms. Rafter testified that Mr. McBride told her that Ms. LaPrete got her information from the respondent. However, the respondent denied that he told Ms. LaPrete about D.V. and the Keansburg student. The respondent testified that he told Ms. LaPrete about several complaints he had received from the community regarding a rumor that two football players had been arrested for doing drugs. Ms. Rafter testified that she eventually got information that D.V. and the Keansburg student had confessed to being under the influence. After talking with Ms. LaPrete and getting advice from counsel, she suspended D. V from the football team.

Complainants, Mr. and Mrs. Valenti, appealed the suspension of D.V. A hearing was held on September 20, 2005. The respondent did not participate in the appeal hearing. During the hearing, a Union Beach police officer read the July 2005 incident report and mentioned both D.V. and M.H. by name. M.H. was recognized as a student of the District. After the hearing, M.H. was suspended from the football team. M. H’s appeal was subsequently denied.

## **ANALYSIS**

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.

The complainants allege that the respondent violated N.J.S.A. 18A:12-24.1(a), (b), (c), (e), (g) and (j) of the Code of Ethics for School Board Members in connection with his conduct related to the suspension of their sons. Complainants maintain that respondent spoke to Ms. LaPrete about the July 2005 incident involving D. V and M.H. Complainants also maintain that respondent failed to report the July 2005 incident to his superiors in the police department. Complainants further set forth that respondent did not abide by the MOA between the District and the Hazlet Police Department.

N.J.S.A. 18A:12-24.1(a) 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.

To prove a violation of N.J.S.A. 18A:12-24.1(a), the complainants argue that the respondent failed to bring about changes according to legal and ethical procedures. Complainants argue that the respondent did not abide by the legal procedure set forth in the MOA between the District and the Hazlet Police Department. However, complainants failed to provide factual proof to support their contention such as the MOA. Complainants also failed to indicate exactly what desired change the respondent sought. Absent a determination from a court of law or an administrative agency of this State finding that the respondent failed to enforce all laws, rules and regulations of the State Board of Education, or court orders pertaining to schools, or finding that the respondent attempted to bring about changes through illegal or unethical procedures, the Commission cannot find that the respondent violated N.J.S.A. 18A:12-24.1(a). The Commission can find no evidence to factually prove that respondent failed to bring about changes only through legal and ethical procedures. Therefore, the Commission finds that the respondent did not violate N.J.S.A. 18A:12-24.1(a) and dismisses this allegation.

N.J.S.A. 18A:12-24.1(b) provides:

I will make decisions in terms of the educational welfare of children and will seek to develop and maintain public schools that meet the individual needs of all children regardless of their ability, race creed, sex, or social standing.

Complainants allege that respondent violated N.J.S.A. 18A:12-24.1(b) because he failed to make decisions in terms of the educational welfare of the children. However, complainants failed to provide any factual evidence to show how the respondent made decisions that were not in terms of the educational welfare of the children. Complainants allege in their complaint that the respondent “never informed administrative officials [of the August 2005 incident], even though the MOA required him to report such an incident,” and that the respondent “should have reported allegations of improper student conduct to his superiors in the police department who in turn would communicate with school officials.” The Commission notes that it has no jurisdiction to make a determination regarding the MOA. The testimony presented shows that the respondent did go to his superiors regarding both the August and July 2005 incident. The Commission can find no evidence to factually prove that respondent failed to make decisions in terms of the educational welfare of the children. Therefore, the Commission finds that the respondent did not violate N.J.S.A. 18A:12-24.1(b) and dismisses this allegation.

N.J.S.A. 18A:12-24.1(c) provides:

I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

To prove a violation of N.J.S.A. 18A:12-24.1(c), the complainants allege that the respondent did not participate in collective deliberation and decision making. The

Commission finds that N.J.S.A. 18A:12-24.1(c) does not require collective deliberation and decision making. While the Commission encourages collective deliberation and decision making, N.J.S.A. 18A:12-24.1(c) requires the respondent to confine his board action to policy making, planning, and appraisal, and to help frame policies and plans only after the board has consulted those who will be affected by them. The Commission can find no evidence to factually prove that respondent failed to confine his board action to policy making, planning, and appraisal, and to help frame policies and plans only after the board has consulted those who will be affected by them. Therefore, the Commission finds that the respondent did not violate N.J.S.A. 18A:12-24.1(c) and dismisses this allegation.

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.

Complainants allege that respondent violated N.J.S.A. 18A:12-24.1(e) because he took private action that could have compromised the Board. Complainants' allege that the respondent discussed the July 2005 incident with Ms. LaPrete. However, the Commission notes that the respondent testified that he went to Ms. LaPrete and told her about complaints from the community that two football players had been involved with drugs. There was hearsay evidence presented that Ms. LaPrete learned of the July 2005 incident from the respondent. Even if this was true, the Commission finds that this was not private action that may compromise the Board. The Commission finds that the respondent was acting in his official capacity as a Board member to fulfill his Board member duty to refer all complaints to the chief administrative officer as required in N.J.S.A. 18A:12-24.1(j). The Commission can find no evidence to factually prove that respondent took private action that may compromise the Board. Therefore, the Commission finds that the respondent did not violate N.J.S.A. 18A:12-24.1(e) and dismisses this allegation.

Complainants next allege a violation of 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 the respondent failed to deal appropriately with matters in a confidential manner. The evidence shows that the respondent went to Ms. LaPrete with rumors in the community regarding two football players' involvement with drugs. As noted above, there was also some hearsay evidence that the respondent went to Ms. LaPrete about the July 2005

incident. Even if this were true, the complainant only shared the information with Ms. LaPrete who, as superintendent, needed the information in order to enforce the District's drug policy and proceed forward with disciplinary action. The respondent did not disclose any information in a manner that would needlessly injure individuals or the schools and the complainants do not even set forth facts to make that allegation. The Commission can find no evidence to factually prove that respondent failed to hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. Therefore, the Commission finds that the respondent did not violate N.J.S.A. 18A:12-24.1(g) and dismisses this allegation.

Last, complainants allege that respondent 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 the respondent violated N.J.S.A. 18A:12-24.1(j) because he did not refer all complaints to the chief administrative officer and act on complaints at public meetings only after failure of an administrative solution. The only evidence presented shows that the respondent did refer all complaints to Ms. LaPrete. There is no evidence to show that the respondent acted on any complaints on his own prior to reporting the complaints to the chief administrative officer. The Commission can find no evidence to factually prove that respondent 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 the respondent did not violate N.J.S.A. 18A:12-24.1(j) and dismisses this allegation.

## **DECISION**

For the reasons expressed above, the Commission finds that Mr. Mason did not violate the School Ethics Act and dismisses the allegations against him.

## **REQUEST FOR SANCTIONS**

Respondent has asked that the Commission find that the complaint was frivolous and impose sanctions pursuant to N.J.S.A. 18A:12-29(e). The Commission considered the respondent's request at its September 26, 2006 meeting. 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]

The respondent argues that the complainants filed the complaint because they were motivated by frustration and anger because their children were precluded from playing sports in their senior year. This fact alone does not show that the complaint was filed in bad faith solely for the purpose of harassment, delay or malicious injury. Certainly the complaint did not delay the suspensions of the complainants' children from the football team. Furthermore, the complaint did not cause harassment or malicious injury to the respondent. The Commission can find no evidence that the complaint was filed in bad faith solely for the purpose of harassment, delay or malicious injury. There is also no evidence to show that complainants knew, or should have known that the complaint was without any reasonable basis in law. For the foregoing reasons, the Commission finds that the complaint was not frivolous and denies the respondent's request for sanctions against the complainant.

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 – C12-06**

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

**Whereas**, the Commission finds that the respondent did not violate N.J.S.A. 18A:12-21 et seq.; 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 to dismiss as its final 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 September 26, 2006.

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Lisa James-Beavers  
Executive Director