

	:	BEFORE THE SCHOOL
AMIE RUKENSTEIN	:	ETHICS COMMISSION
	:	
v.	:	
	:	Docket No. C13-08
JUDY KARP	:	
HOPEWELL VALLEY	:	DECISION ON
BOARD OF EDUCATION	:	MOTION TO DISMISS
MERCER COUNTY	:	
	:	

PROCEDURAL HISTORY

This matter arises from a complaint filed on April 14, 2008 by Amie Rukenstein alleging that Judy Karp a member of the Hopewell Valley Board of Education (Board) violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. The complainant specifically alleged that the respondent violated N.J.S.A. 18A:12-24.1(e) of the Code of Ethics for School Board Members.

The respondent, pursuant to N.J.A.C. 6A:28-6.5(e), timely filed a Motion to Dismiss the Complaint in lieu of filing an Answer on May 5, 2008, together with a request for sanctions pursuant to N.J.S.A. 18A:12-29(e) and supporting certifications. The complainant did not submit a response to the Motion. The Commission considered the complaint, the Motion to Dismiss and the request for sanctions at its meeting on June 24, 2008, at which time the Commission voted to grant the respondent’s Motion to Dismiss the complaint and deny the request for sanctions.

THE PLEADINGS

By way of background, there is no dispute that, at all times relevant to the complaint, the complainant was treasurer for a 2007 school board campaign for candidates Jim Wulf and Aron Tellier and the respondent was a member of the Board. The complainant asserts that the respondent wrote a letter to the editor of the *Pennington Press* dated on or about April 9, 2008 and to the *Hopewell Valley News* dated April 10, 2008 wherein the respondent stated that campaign finances were mishandled. (Complaint at p. 1, Paragraph 2) The complainant further asserts that, in the letter to the editor, the respondent stated that certain donations were not reported to the New Jersey Election Law Commission, and, rather than question the complainant, the respondent took her allegation to the newspaper. (Id. at pgs. 1-2, para. 2)

The complainant alleges that, in the letter to the editor, the respondent did not identify herself as a member of the board; did not state that the letter was her opinion and was neither authorized by the board nor written on behalf of the board; alleged facts that are untrue; and took a private action that compromised the board, which is in violation of N.J.S.A. 18A:12-24.1(e) as interpreted in *Advisory Opinion A02-06* (March 10, 2006) and *Advisory Opinion A03-07* (April 2, 2007).

The complainant attached the letter to the editor to her complaint, which states in full:

Hopewell Valley, do we want hidden agendas or backroom policies to run our valley? Isn't transparency and openness what everyone is calling for?

Yet during the 2007 School Board election, Jim Wulf and Aaron Tellier's campaign spent an unprecedented amount of money, \$7684. In the past, a well-funded campaign cost about \$1200. There would be a simple flier, yard signs and maybe one ad in a newspaper. But the Wulf/Tellier campaign had multiple half and full page newspaper ads, multi-colored glossy postcards, and signs galore. As they say, lets [sic] follow the money to find the story.

State law requires that candidates for public office file forms designating a treasurer, depository, and reports disclosing contributions and expenditures. In the Wulf/Tellier reports they disclosed multiple donors, who each donated \$40 or less and Farrington Music of Hightstown who donated \$2500. In September, their campaign bank account was finally closed, dispersing three checks of \$95.59 to Mayor Vanessa Sandom, her husband (Carl Seiden) and her brother (J. Sandom) with the explanation "partial reimbursement for expenditures." While not illegal for a mayor to support a campaign, one must ask why any leftover funds were distributed to the mayor of our Township and her family, when the records do not show them as donors?

I see the same high spending scenario in the Dollard/Fogler campaign that has not yet filed its required disclosures to account for their already mailed glossy postcard and all their other promotions. Let's not allow a few wealthy individuals to buy our School Board.

Judy Karp
Hopewell Township

ANALYSIS

In considering a Motion to Dismiss, the Commission considers the facts in the light most favorable to the non-moving party. The question before the Commission was whether the complainant alleged facts which, if true, could support a finding that the respondent violated N.J.S.A. 18A:12-24.1(e). Granting all inferences to the complainant, and even assuming all facts to be true, the Commission finds that the complainant has failed to meet this standard.

N.J.S.A. 18A:12-24.1(e) requires the respondent to recognize that authority rests with the board of education and requires that the respondent make no personal promises

nor take any private action that may compromise the board. In *A02-06*, the Commission advised a board member that he could send a letter to the editor expressing his opinion about the budget as long as, in the letter, the board member did not hold himself out as a board member and the information was accurate and not confidential. (*A02-06* at p. 1) In *A03-07*, the Commission reaffirmed its advice in *A02-06* and clarified what it meant by the terminology “hold himself out as a board member.” (*A03-07* pgs. 2-3) The Commission advised that, in a letter to the editor, a board member should identify her or his title as a board member and indicate that the letter is neither authorized by, nor written on behalf of, the board. The Commission advised that the letter should not contain confidential information, should be accurate and the board member must ensure that the letter does not compromise the board. In both *A02-06* and *A03-07* the content of the letter to the editor concerned the board budget, a matter that had formerly been before the board for discussion and a vote. Here, by contrast, the respondent’s letter is not about board business, but rather about a campaign for board membership. The Commission herein clarifies that the advice provided in *A03-07* applies only to letters to the editor written by board members about matters that have been before for the board for consideration. The Commission also takes note that the complainant failed to allege any facts which show that the letter to the editor was of such a nature that it could compromise the board. Therefore, even accepting as true all facts alleged by the complainant, the Commission determines that these facts would not constitute a violation under N.J.S.A. 18A:12-24.1(e).

DECISION

Based on the foregoing, the Commission grants the respondents’ Motion to Dismiss the complaint. This is a final decision of an administrative agency, appealable to the Superior Court, Appellate Division. See, New Jersey Court Rule 2:2-3(a).

REQUEST FOR SANCTIONS

At its June 24, 2008 meeting, the Commission considered the respondent’s request that the Commission find that the complaint was frivolous and impose sanctions pursuant to N.J.S.A. 18A:12-29(e). The respondent claims that the allegations were made in bad faith for the purpose of harassment because the complainant knew that the respondent was on her last days in office. (Motion to Dismiss at p. 4) This allegation does not rise to the level of harassment as set forth at N.J.A.C. 6A:28-1.2. The Commission also has no information to suggest that the complainant should have known that the complaint was without any reasonable basis in law or equity or that it could not be supported by a good faith argument for an extension, modification or reversal of existing law. For the foregoing reasons, the Commission finds that the complaint is not frivolous and denies the respondent’s request for sanctions against the complainant.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C13-08

Whereas, the School Ethics Commission has considered the pleadings filed by the parties and the Motion to Dismiss filed by the respondent, together with the documents submitted in support thereof; and

Whereas, the Commission granted the respondent's Motion to Dismiss the complainant's allegation that the respondent violated N.J.S.A. 18A:12-24.1(e) of the Code of Ethics for School Board Members within the School Ethics Act; and

Whereas, the Commission denied the respondent's request that the Commission find that the complaint was frivolous and impose sanctions pursuant to N.J.S.A. 18A:12-29(e); 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 granting the respondent's Motion to Dismiss as the final decision of an administrative agency and directs its staff to notify all parties to this action of its 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 July 22, 2008.

Joanne Boyle
Executive Director