



At the November 22, 2005 meeting, after presentation of the testimony, the Commission voted to table the matter and requested that counsel for both parties provide simultaneous written summations on behalf of their clients by December 12, 2005.

The closing statement of Mr. Talty and Ms. Kight was timely filed by Mr. Monahan, Esq. on December 9, 2005. In his closing statement, Mr. Monahan stressed that Mr. Lanzieri had withdrawn the criminal complaint he had filed against Mr. Talty and Ms. Kight in the Brick Township Municipal Court based on the same facts that gave rise to the complaints filed before the Commission. Mr. Monahan argues that the voluntary withdrawal of those charges contradicts any testimony which Mr. Lanzieri or his witnesses gave during the November 22, 2005 hearing before the Commission. Mr. Monahan argued that there was no evidence that Mr. Talty physically and verbally abused Mr. Lanzieri at the March 17, 2005 Board meeting. Instead, Mr. Monahan claimed that Mr. Talty knew Mr. Lanzieri from church and other activities and had approached Mr. Lanzieri in an attempt to calm him down. In the closing statement, it is admitted that Mr. Talty placed his hand upon the shoulder of Mr. Lanzieri; however, Mr. Monahan maintains that it was done for the purpose of calming Mr. Lanzieri and was not a violation of N.J.S.A. 18A:12-24.1(e).

With respect to Ms. Kight, Mr. Monahan maintains that, prior to the executive session of the Board on March 17, 2005, Ms. Kight walked up the aisle not to confront Mr. Lanzieri, but to meet with her husband as was her usual custom. Mr. Monahan maintains that because Ms. Kight felt that Mr. Lanzieri belittled Mr. Talty, she briefly exchanged words with Mr. Lanzieri and continued up the aisle to meet her husband. Mr. Monahan points out that the newspaper reporter, Danielle Medina, would have prepared a newspaper article if anything significant had happened between Ms. Kight and Mr. Lanzieri, but since there was just a brief exchange of words, there was no newspaper story. Mr. Monahan maintains that Ms. Kight was merely expressing her opinion when she spoke with Mr. Lanzieri, which is not a violation of N.J.S.A. 18A:12-24.1(e). Mr. Monahan argues that, based on previous Commission decisions, there was no private action taken by either Ms. Kight or Mr. Talty and, thus Mr. Lanzieri failed to demonstrate a violation of N.J.S.A. 18A:12-24.1(e).

The Commission reviewed and considered the closing statements of the parties at its December 20, 2005 meeting and voted to find that Mr. Talty did not violate N.J.S.A. 18A:12-24.1(e) of the Code of Ethics for School Board Members in the Act. The Commission voted to find that Ms. Kight violated N.J.S.A. 18A:12-24.1(e) and recommended a sanction of a two-month suspension.

## **FACTS**

The Commission based its findings on the following facts.

At all times relevant to these complaints, Mr. Talty and Ms. Kight were members of the Board. Subsequent to the filing of the complaint, Ms. Kight became Board

President. Mr. Lanzieri co-founded Friends of Parents of Autistic Children (POAC). Mr. Lanzieri and Mr. Talty know each other from church and other functions.

At the March 17, 2005 Board meeting, Mr. Talty asked the Superintendent if the funds set aside for the roof were going to be spent to fix the roof. Mr. Talty testified that in the past this had been a problem with the roof leaking and many parents had complained about the leaky roof. The Superintendent told Mr. Talty that the funds would be spent to fix the leaky roof.

Mr. Lanzieri testified that, at the March, 17, 2005 Board meeting, he was sitting in the back on the right on an end seat and Mr. Bendokas was sitting in front of him. He further testified that, at that time, he was recovering from very recent back surgery. During the public comment portion of the meeting, Mr. Lanzieri got up to speak. Although, Mr. Lanzieri testified that he spoke to the Board as a whole, there is testimony from Mr. Talty, Ms. Kight and Ms. Medina that Mr. Lanzieri directed his comments towards Mr. Talty. There is contradictory testimony regarding exactly what Mr. Lanzieri said when he addressed the Board; however, there is consensus that he made comments regarding the fact that the Board was focusing on the roof when they should be focusing on the loss of 22 positions. Mr. Talty responded to Mr. Lanzieri's comments, and Mr. Lanzieri made another comment. The Board President stopped Mr. Talty from responding again and cut off further discussion on the subject. Ms. Kight testified that the comments from Mr. Lanzieri made her very upset to the point that she was shaking.

Mr. Lanzieri testified that, generally, when the meetings go into executive session, the Board members usually leave to the right. However, both Ms. Kight and Ms. Medina testified that Ms. Kight usually talks to her husband before the Board's executive sessions. Thus, she usually goes to meet her husband who is in the audience.

There is contradictory testimony regarding Ms. Kight's behavior when the Board broke for executive session. Mr. Lanzieri testified that Ms. Kight came up to him screaming. He said she pointed her finger and pushed him with her forearm and elbow. He further testified that she said that she would get him and her organization. Mr. Bendokas, who was sitting right in front of Mr. Lanzieri, testified that Ms. Kight approached Mr. Lanzieri with a very direct and focused movement. He further testified that she was shouting at Mr. Lanzieri regarding his comments to Mr. Talty and then she poked Mr. Lanzieri with her finger. Mr. Dubrowsky testified that he saw Ms. Kight running toward Mr. Lanzieri saying that she will get him. Mr. Lanzieri testified that Ms. Kight's husband pulled her away from the commotion. Ms. Medina testified that Ms. Kight was very upset and annoyed as her husband led her out.

Ms. Kight testified that when the Board went into executive session, she picked up her binder and folders and headed up the aisle toward her husband to ask him if he wanted to stay. She further testified that she then turned to Mr. Lanzieri and said that what he had said to Mr. Talty was cruel and uncalled for. She testified that she did not touch Mr. Lanzieri since her hands were full with her notebook and folders. Ms. Kight demonstrated by standing up with a large binder in her hands to show that she could not

have possibly touched Mr. Lanzieri because of the size of the binder. However, the Commission notes that in her demonstration, she put the large binder in her right hand while she gestured with her left hand. Ms. Kight further testified that her husband, who was sitting across the aisle from Mr. Lanzieri, grabbed her to lead her away from Mr. Lanzieri.

After Ms. Kight was led away by her husband, Mr. Talty headed up the aisle on the right. Mr. Talty testified that he heard an argument between Ms. Kight's son and Mr. Lanzieri regarding Ms. Kight. He further testified that he saw Mr. Lanzieri and put his hand on Mr. Lanzieri's shoulder. Mr. Lanzieri told him to take his hand off, which he did. Mr. Lanzieri and Mr. Dubrowsky both testified that Mr. Talty placed his hand on Mr. Lanzieri's shoulder twice. Mr. Bendokas, Mr. Dubrowsky and Ms. Medina all testified that when Mr. Talty put his hand on Mr. Lanzieri's shoulder, it was in an attempt to diffuse the situation and calm down Mr. Lanzieri. Mr. Talty testified that after his attempt to speak with Mr. Lanzieri he left saying, "There is no talking to you tonight."

Both Mr. Lanzieri and Mr. Dubrowsky testified that, after the events at the March 17, 2005 Board meeting, they do not feel comfortable speaking out at Board meetings.

## **ANALYSIS**

As an initial matter, the Commission notes that Mr. Lanzieri bears the burden of proving factually any violations of the Code of Ethics for School Board Members under N.J.S.A. 18A:12-29.

Mr. Lanzieri alleges that Mr. Talty and Ms. Kight violated N.J.S.A. 18A:12-24.1(e) of the Code of Ethics for School Board Members in the Act when, at the March 17, 2005 Board meeting, they both physically and verbally attacked Mr. Lanzieri. 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.

Since there is no promise involved, in order to prove a violation of N.J.S.A. 18A:12-24.1(e), Mr. Lanzieri must show that Mr. Talty and Ms. Kight took private action that had the potential to compromise the Board. When Mr. Talty approached Mr. Lanzieri after the Board broke for executive session at the March 17, 2005 Board meeting, he did place his hand on Mr. Lanzieri's shoulder twice. However, the evidence shows that he did so in an attempt to calm Mr. Lanzieri down. Furthermore, he walked away from Mr. Lanzieri when he realized that he could not get through to him. Mr. Talty's actions had no potential to compromise the Board because he was trying to diffuse the situation; he was not there to confront or argue with Mr. Lanzieri. Therefore, the Commission finds that Mr. Talty did not violate N.J.S.A. 18A:12-24.1(e).

In regards to Ms. Kight, the Commission notes that there is contradictory testimony regarding her interaction with Mr. Lanzieri. Ms. Kight testified that she was so upset with Mr. Lanzieri's comments during the public comment portion of the meeting that she was shaking. She further testified that she walked calmly towards her husband and turned to Mr. Lanzieri. However, Mr. Lanzieri and two witnesses testified that she walked up to Mr. Lanzieri in an aggressive manner. Ms. Kight denies that she touched Mr. Lanzieri. However, Mr. Lanzieri and two witnesses testified that she either pointed her finger at him or pushed him. There is also evidence that Ms. Kight told Mr. Lanzieri that she would get him and his organization. Even Ms. Kight's witness, Ms. Medina testified that Ms. Kight was upset and annoyed as her husband led her out. All the witnesses agree that the interaction between Ms. Kight and Mr. Lanzieri was so heated that her husband had to pull her away.

Ms. Kight's actions were clearly private actions since they occurred during a break in the Board meeting. She was not acting in her official Board capacity since she was no longer engaged in the Board meeting. The evidence shows that she was headed towards her husband to see if he was going to stay while she was participating in the executive session of the Board. She testified that she then turned towards Mr. Lanzieri to discuss his comments. The Commission must determine if Ms. Kight's private action had the potential to compromise the Board. The weight of the evidence shows that Ms. Kight approached Mr. Lanzieri in an aggressive manner, screamed at him and threatened him. There is also evidence to show that she made some type of physical contact with Mr. Lanzieri. The evidence also shows that her actions have had an impact on both Mr. Lanzieri and Mr. Dubrosky, who do not feel comfortable speaking at Board meetings. The Commission finds that such aggressive actions had the potential to compromise the Board because the actions hurt the integrity of the Board and intimidated the public from coming forward and addressing the Board. Therefore, the Commission finds that Ms. Kight violated N.J.S.A. 18A:12-24.1(e) when she took private action in confronting Mr. Lanzieri in a verbal and physical manner regarding his comments during the public comment session at the March 17, 2005 Board meeting.

## **DECISION**

For the reasons discussed above, the Commission finds that Mr. Talty did not violate N.J.S.A. 18A:12-24.1(e) and dismisses the complaint against him. The Commission also finds that Ms. Kight violated N.J.S.A. 18A:12-24.1(e) when she took private action in confronting Mr. Lanzieri in a verbal and physical manner regarding his comments during the public comment session at the March 17, 2005 Board meeting. The Commission recommends that the Commissioner of Education impose a penalty of a two-month suspension because of Ms. Kight's aggressive interaction with a member of the public who commented during a Board meeting.

This decision has been adopted by a formal resolution of the School Ethics Commission. This matter shall now be transmitted to the Commissioner of Education for action on the Commission's recommendation **for sanction only**, pursuant to N.J.S.A. 18A:12-29. Within 13 days from the date on which the Commission's decision was

mailed to the parties, Ms. Kight may file written comments on the recommended sanction with the Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, NJ 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the School Ethics Commission and all other parties.

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Paul C. Garbarini  
Chairperson

**Resolution Adopting Decision – C18-05 & C19-05**

**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 November 22, 2005 the Commission held a hearing on whether John Talty and Sharon Kight violated N.J.S.A. 18A:12-24.1(e) of the Code of Ethics for School Board Members in the Act; and

**Whereas**, at its meeting of December 20, 2005, the Commission reviewed and considered the final written summations of the parties and voted to dismiss the complaint against Mr. Talty, to find that Ms. Kight violated N.J.S.A. 18A:12-24.1(e) of the Code of Ethics for School Board Members in the Act and to recommend to the Acting Commissioner that Ms. Kight be suspended for a period of two months; and

**Whereas**, 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.

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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 January 24, 2006.

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Lisa James-Beavers  
Executive Director

