

DENISE BOUYER	:	BEFORE THE SCHOOL
	:	ETHICS COMMISSION
	:	
v.	:	
	:	
THERESA RITA OWENS AND	:	
OSCAR MCCOY	:	Dkt. No. C37-09
WILLINGBORO BOARD OF	:	DECISION
EDUCATION	:	
BURLINGTON COUNTY	:	
	:	

PROCEDURAL HISTORY

This matter arises from a complaint filed on August 17, 2009 by Denise Bouyer alleging that Theresa Rita Owens and Oscar McCoy, members of the Willingboro Board of Education violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. Specifically, the complainant alleges that the respondents violated N.J.S.A. 18A:12-24.1(a) of the Code of Ethics for School Board Members. Respondent Owens filed an answer on September 28, 2009. Respondent McCoy did not file an answer to the complaint.

The parties were notified by letters dated September 30, 2009 that the Commission would consider this matter at its October 27, 2009 meeting in order to make a determination pursuant to N.J.A.C. 6A:28-10.8(a) whether to retain the complaint for a hearing by the Commission at a later date where the complainant shall prosecute the complaint, or refer the matter to the Office of Administrative Law (OAL) for a hearing where the complainant shall prosecute the complaint.

By letter dated October 28, 2009, parties were informed that this matter was discussed at Commission’s meeting on October 27, 2009 and, pursuant to N.J.A.C. 6A:28-10.8(a), the Commission voted to retain this complaint for hearing. However, in so doing, the Commission noted that when it retains a complaint for a hearing, such hearing shall be conducted in accordance with the rules of the (OAL), N.J.A.C. 1:1. N.J.A.C. 6A:28-10.8(c). In this instance, the Commission specifically noted that this matter appeared to be ripe for summary decision in that there is no genuine issue of material fact that would require an evidentiary hearing. Thus, the parties were accorded until November 20, 2009 to submit reasons why the Commission should not resolve this matter on a summary basis at its November 24, 2009 meeting. The Commission did not receive any documents from the parties pursuant to this notice. Accordingly, this complaint was scheduled for summary review at the Commission’s November 24, 2009 meeting, at which time the Commission dismissed the complaint.

SUMMARY OF THE RECORD

The complainant contends that the respondents violated N.J.S.A. 18A:12-24.1(a) because they failed to timely submit their 2009 personal/relative and financial disclosure statements in accordance with N.J.S.A. 18A:12-25 and 26. Respondent Owens filed her answer on September 28, 2009 and provided a copy of the disclosure statements she submitted to her Board Secretary, which were date stamped August 6, 2009. Although Respondent McCoy did not file an answer, pursuant to N.J.A.C. 1:1-15.2, the Commission notified the parties that it would take official notice of the fact that Respondent McCoy filed his 2009 personal/relative and financial disclosure statements with the Board on August 6, 2009.¹

FINDINGS OF FACT

The Commission finds the following to be undisputed facts:

1. Respondent Theresa Rita Owens is an appointed member of the Board of Education.
2. Respondent Oscar McCoy is an appointed member of the Board of Education.
3. Both respondents filed their personal/relative and financial disclosure statements with the Board on August 6, 2009.

ANALYSIS

The Commission initially notes the complainant has the burden to prove factually a violation under the Code of Ethics for School Board Members as provided by N.J.A.C. 6A:28-6.4. Here, the complainant has alleged that the respondents violated N.J.A.C. 6A:12-24.1(a). The Commission's regulations require that:

Factual evidence of a violation of N.J.S.A. 18A:12-24.1(a) shall include a copy of a final decision from any court of law or administrative agency of this State demonstrating that the respondent(s) failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that the respondent brought about changes through illegal or unethical procedures. N.J.A.C. 6A:28-6.4(a)1.

It is specifically noted in this connection that the complainant does not assert that a final decision has been rendered with respect to these respondents from any court of law or administrative agency of this State demonstrating that they failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that the respondents brought about changes through illegal or unethical means. Nor does the complainant include a copy of a final decision from any court of law or administrative agency of this State that so

¹Additionally, copies of those statements were provided to the parties, who were further advised that they may contest the documents.

demonstrates, as is her burden. Accordingly, the Commission finds that the complainant has not established a violation of N.J.S.A. 18A:12-24.(a).

DECISION

Based on documentary evidence, the Commission finds that the complainant did not establish that the respondents violated N.J.S.A. 18A:12-24.1(a) of the Code of Ethics for School Board Members. Consequently, the complaint is dismissed. 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).

Robert W. Bender
Chairperson

Resolution Adopting Decision – C37-09

Whereas, the School Ethics Commission has considered the documents filed by the parties; and

Whereas, at its meeting of November 24, 2009, the Commission found that the complainant had not established that the respondents violated N.J.S.A. 18A:12-24.1(a) and therefore dismissed the charges against them; and

Whereas, the Commission has reviewed and approved the decision memorializing said action;

Now Therefore Be It Resolved, that the Commission hereby adopts the within decision and directs its staff to notify all parties to this action of the decision.

Robert Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its public meeting on December 15, 2009.

Joanne Boyle, Executive Director