PAUL SPADAFORA	:	**BEFORE THE SCHOOL**
	:	**ETHICS COMMISSION**
v.	:	
	:	**Docket. No. C03-13**
JEFFREY RADIO	:	**DECISION**
CLAYTON BOARD OF EDUCATION	:	
GLOUCESTER COUNTY	:	
	:	

PROCEDURAL HISTORY

This matter arises from a complaint filed on January 22, 2012, by complainant, Paul Spadafora, alleging that respondent, Jeffrey Radio, a member of the Clayton Board of Education ("Board"), violated the School Ethics Act ("Act"), N.J.S.A. 18A:12-21 et seq. Specifically, complainant asserts that the respondent violated N.J.S.A 18A:12-24.1(a), (e), and (f). A letter dated March 4, 2013 was sent to the respondent notifying him that the charges against him were filed with the Commission and advising him that he had 20 days to answer the complaint. Respondent filed his answer on April 1, 2013 but did not allege that the complaint was frivolous.

The parties were notified by letter dated May 7, 2013, that the Commission would consider this matter at its meeting on May 28, 2013, in accordance with N.J.A.C. 6A:28-10.8. Therein, the parties were specifically advised that the Commission would take one of several actions: Decide to retain the complaint for a hearing by the Commission at a later date; decide to refer the matter to the Office of Administrative Law for a hearing; table the matter to request additional information or legal advice; or dismiss the complaint where the allegations in the complaint, on their face, were insufficient, even if true, to warrant review by the Commission as possible violations of the School Ethics Act.

At its meeting of May 28, 2013, the Commission voted to dismiss the complaint for failure to state a claim upon which relief could be granted for a violation of the Act. N.J.A.C. 6A:28-10.8(a)(5).

SUMMARY OF THE PLEADINGS

The sequence of events surrounding this complaint is the brutal murder of Autumn Pasquale, age 12, in October 2012. The complainant is the uncle of the deceased. In an effort to galvanize an already devastated community, the complainant states that he worked to gather as many residents as he could to attend the next council meeting because he felt the town was not doing enough to provide grief counseling for the children. The complainant asserts that the respondent Board member assessed this purpose as engaging in "'torch & pitchfork' tactics" (Complaint at p.1). Furthermore, the complainant alleges that the respondent took steps to dissuade the residents from attending, including having a police presence at the meeting and requiring some who attended to sign in. The complainant asserts that the respondent violated N.J.S.A. 18A:12-24.1(a), (e) and (f).

In his answer, the respondent asserts that he has known Anthony Pasquale, the father of the young girl for over 20 years, having attended high school together. He maintains that in their communications, the father always wanted his daughter to be remembered in a positive way and further asserts that the superintendent requested additional security and also instructed the police to have the attendees sign in.

ANALYSIS

The complainant has the burden to factually establish a violation of the Code of Ethics for School Board Members in accordance with the standards set forth at N.J.A.C. 6A:28-6.4(a). A complaint must include, among other requirements, specific allegations and the facts supporting them, which gave rise to the alleged violation(s) of the Act. N.J.A.C. 6A:28-6.3(b)3. Regulations further provide that the Commission may, in its discretion, dismiss complaints entirely or specific allegations in complaints, where the complaint, on its face, fails to allege facts sufficient to maintain a claim under the Act. N.J.A.C. 6A:28-10.2(a)7; N.J.A.C. 6A:28-10.8(a)5.

Commensurate with its review, the Commission first considers the allegations that the respondent violated N.J.S.A. 18A:12-24.1(a), (e) and (f), which state, respectively:[1]

> I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures. I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.(a)

> 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. (e)

---

[1] For complaints alleging a violation of the code of ethics for school board members, the complainant has the burden to factually establish a violation in accordance with the standards set forth below:

1. 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.

2. Factual evidence of a violation of N.J.S.A. 18A:12-24.1(e) shall include evidence that the respondent made personal promises or took action beyond the scope of his or her duties such that, by its nature, had the potential to compromise the board.

3. Factual evidence of a violation of N.J.S.A. 18A:12-24.1(f) shall include evidence that the respondent(s) took action on behalf of, or at the request of, a special interest group or persons organized and voluntarily united in opinion and who adhere to a particular political party or cause; or evidence that the respondent(s) used the schools in order to acquire some benefit for the respondent(s), a member of his or her immediate family or a friend.

> I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends. (f)

Even assuming the facts as alleged in the complaint are true, the Commission does not find that the respondent failed to uphold the laws, rules and regulations of the State as required by subsection (a) nor does it find that the respondent took action beyond the scope of his authority which had the potential to compromise the Board as required by subsection (e). Finally, the Commission does not find that the respondent acted on behalf of some special interest group or that he used the schools for his own benefit as required by subsection (f).

The Commission recognizes that the loss of so young a life is tragic and has deeply hurt the entire community. Although the Commission empathizes with the residents of Clayton, the Commission finds that based on the arguments before it, the complaint, on its face, fails to allege facts sufficient to maintain a claim upon which relief could be granted or that the respondents violated N.J.S.A. 18A:12-24.1(a), (e) or (f).

DECISION

Based on the foregoing, and pursuant to its discretion, the Commission dismisses the within complaint for failure to allege facts sufficient to maintain a claim that would be a violation of the Act. N.J.A.C. 6A:28-10.2(a)7; N.J.A.C. 6A:28-10.8(a)5. 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).

_____

Robert W. Bender, Chairperson

Mailing Date: June 26, 2013

3

Resolution Adopting Decision – C03-13

Whereas, the School Ethics Commission has considered the complaint and respondent's answer; and

Whereas, at its meeting on May 28, 2013, the Commission determined to dismiss the complaint for failure to state a claim upon which relief could be granted for a violation of the Act; and

Whereas, at its June 25, 2013 meeting, the Commission has reviewed and approved the decision memorializing said action;

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

_____
Robert W. Bender, Chairperson

I hereby certify that the Resolution
was duly adopted by the School
Ethics Commission at its public
meeting on June 25, 2013.

_____
Joanne M. Restivo
Interim Executive Director
School Ethics Commission