

BEFORE THE SCHOOL ETHICS COMMISSION

JOHNNY McCLELLAN¹

V.

DARLEEN BEY-BLOCKER,
PLEASANTVILLE BOARD OF
EDUCATION,
ATLANTIC COUNTY

AND

JOHNNY McCLELLAN

V.

JOANNE FAMULARO,
PLEASANTVILLE BOARD
OF EDUCATION,
ATLANTIC COUNTY

FINAL DECISION

OAL DKT. NO. EEC 04356-13
On Remand from EEC 05785-12
AGENCY DKT. NO. C05-12

AND

OAL DKT. NO. EEC 04356-13
On Remand from EEC 05784-12
AGENCY DKT. NO. C06-12

CONSOLIDATED

These matters arise from two complaints filed on February 16, 2012 by complainants, Johnny McClellan and Connie Graham, alleging that respondents, Darleen Bey-Blocker and Joanne Famularo, members of the Pleasantville Board of Education, violated the School Ethics Act (“Act”), N.J.S.A. 18A:12-21 et seq.

The Initial Decision of the Administrative Law Judge (ALJ) was acknowledged as received by the School Ethics Commission on February 7, 2013; therefore, the 45-day statutory period for issuing a final decision expired on March 24, 2013. On review of the record and the ALJ’s decision, the Commission rejected the Initial Decision since the Administrative Law Judge erred by deciding the matter on violations of school policy instead of violations cognizable under the Act. The Commission remanded matter to the OAL for findings of fact and conclusions of law to determine whether the respondents violated the School Ethics Act, N.J.S.A. 18A:12-24.1(c), (e), (f), (g), (i), and (j) of the Code of Ethics for School Board Members.

The Initial Decision on Remand of the Administrative Law Judge (ALJ) was acknowledged as received by the School Ethics Commission on May 13, 2013; therefore, the 45-day statutory period for issuing a final decision expires on June 27, 2013. Prior to that date, the School Ethics Commission requested a 45-day extension of time for issuing its decision so as to allow the Commission, which meets only one day each month to receive and review the full record of the matter, including exceptions and reply arguments. An Order granting the Extension was executed on June 5, 2013. At its meeting on

¹ These matters were filed jointly by complainants Johnny McClellan and Connie Graham against both respondents. Complainant Graham failed to appear at the plenary hearing conducted on January 29, 2013; consequently, the Administrative Law Judge dismissed her complaints.

May 28, 2013, the Commission adopted the findings and conclusions of the ALJ for the reasons expressed in his Initial Decision.

ANALYSIS

Upon careful and independent review, the Commission finds that the record supports the ALJ's conclusion that the complainant failed to meet his burden of proving by a preponderance of the credible evidence that the respondent violated N.J.S.A. 18A:12-24.1(c), (e), (f), (g), (i) and (j) as alleged in the complaint. N.J.A.C. 6A:28-10.9(b).

DECISION

The Commission determines to adopt the ALJ's Initial Decision on Remand, dismissing the complaint in its entirety. 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

Mailing Date: June 26, 2013

Resolution Remanding Decision – C05-12 and C06-12 (Consolidated)

Whereas, the School Ethics Commission transmitted these matters to the Office of Administrative Law for a plenary hearing on April 26, 2012, which was conducted on January 29, 2013; and

Whereas, the Commission received and considered the Initial Decision on Remand of the Administrative Law Judge (ALJ) on May 13, 2013, including the record and all documents submitted to the ALJ; and

Whereas, the Commission concurs with the ALJ that the complaint filed by Connie Graham is hereby dismissed for her failure to appear at the hearing on January 29, 2013; and

Whereas, at its meeting on May 28, 2013, the Commission determined to adopt the Initial Decision on Remand of the ALJ; and

Whereas, at its meeting on June 25, 2013, the Commission agreed that the within decision accurately memorializes its findings and recommendations; and

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

Robert W. Bender, Chairperson

I hereby certify that this 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