

asked that complainant's request for intermittent family leave be pulled from the agenda after which Respondent Bey-Blocker led the discussion of the pulled item. The complainant asserts this is a violation of N.J.S.A. 18A:12-24(b).

Count 2

The complainant also alleges that on July 26, 2013, she received correspondence from a different law firm, advising that it was retained to conduct an investigation into a matter that had already been resolved. When the State Monitor inquired who authorized it, the Board attorney advised that Board President Respondent Bey-Blocker had done so. The complainant maintains Respondent Bey-Blocker failed to follow Board procedure and involved herself in matters concerning the complainant's employment. The complainant asserts this is a violation of N.J.S.A. 18A:12-24(b).

Respondent Page maintains that upon instruction from General Counsel to remove the complainant's request for family medical leave from the agenda, he made a motion to "pull" the item for additional information. Respondent Bey-Blocker argues that this complaint is frivolous and that she tries to do the "right thing."

FINDINGS OF PROBABLE CAUSE

This matter is before the Commission for a determination of probable cause pursuant to N.J.A.C. 6A:28-10.7. That is, the Commission must determine, based on the evidence before it, whether probable cause exists to credit the allegations in the complaint. A finding of probable cause is not an adjudication on the merits, but, rather an initial review whereupon the Commission makes a preliminary determination whether the matter should proceed to an adjudication on the merits, or whether further review is not warranted.

Allegations of Prohibited Acts

The complainant contends that the acts alleged in Counts 1 and 2 were each a violation N.J.S.A. 18A:12-24(b), which provides:

(b) No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others;

In order for the Commission to find probable cause to credit complainant's allegations that the respondents violated N.J.S.A. 18A:12-24(b), the Commission must find, in relevant part, that respondents used their respective official positions to secure unwarranted privileges, advantages or employment for themselves, members of their immediate families or others.

Moreover, there is no evidence in either Count that the respondents made a guarantee, promise or undertook any overt or covert action to obtain or attempt to obtain an "*unwarranted* privilege, advantage or employment" on behalf of themselves or others. There is nothing to support the allegation that either Respondent Page's removal of the complainant's family

medical leave request or Respondent Bey-Blocker's discussion of the item would result in a benefit to these the respondents. No such benefit is articulated and none can be found.

Accordingly, the Commission has determined that complainant has not met her burden of establishing probable cause in each of these violations and, therefore, finds no cause to credit the allegations that respondents violated N.J.S.A. 18A:12-24(b).

Moreover, in Count 2, the complainant has also failed to demonstrate that Respondent Bey-Blocker used her official position to secure unwarranted privileges for herself, her immediate family or others when she initiated an investigation into a matter regarding the complainant, which had already been resolved. Surely, this Respondent may have acted outside the scope of her authority, but that has not been alleged. The complainant provided no evidence that Respondent Bey-Blocker made a guarantee, a promise or undertook any overt or covert action to obtain or attempt to obtain an "*unwarranted* privilege, advantage or employment" on behalf of themselves or others. The complainant has articulated no such contention and the Commission will not fashion one.

Consequently, the Commission finds that the complainant has not met her burden to establish by the quantum of evidence or provide the requisite proof to support a finding of probable cause in each of these violations. Accordingly, the Commission finds no cause to credit the allegations that these respondents violated N.J.S.A. 18A:12-24(b) and hereby dismisses the complaint for failure to state a claim upon which relief could be granted.

REQUEST FOR SANCTIONS

The Commission considered Respondent Bey-Blocker'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 Commission can find no evidence, which might show that the complainant filed the complaint in bad faith solely for the purpose of harassment, delay or malicious injury. 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 request for sanctions against the complainant.

NOTICE

Pursuant to N.J.S.A. 18A:12-29(b), the Commission hereby notifies the complainant and respondent that it finds the complaint not frivolous and further finds no probable cause to credit the allegations that the respondent violated N.J.S.A. 18A:12-24(b). The complaint is, therefore, dismissed. This decision is a final decision of an administrative agency and, 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: August 27, 2014

Resolution Adopting Decision – C37-13

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

Whereas, at its meeting on July 22, 2014, the Commission found no probable cause to credit the allegations of prohibited acts and dismissed the complaint; and

Whereas, the Commission further found the complaint not frivolous; and

Whereas, at its meeting on August 26, 2014, the Commission has reviewed and approved the decision memorializing said action;

Now Therefore Be It Resolved, that the Commission hereby adopts the proposed probable cause notice in this matter and directs its staff to notify all parties to this action of said notice.

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its public meeting on August 26, 2014.

Joanne M. Restivo
Interim Executive Director
School Ethics Commission