
ANGEL BARQUIN

v.

STEVEN RODAS AND ADAM PARKINSON
WEST NEW YORK BOARD OF EDUCATION,
HUDSON COUNTY

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:
: BEFORE THE SCHOOL
: ETHICS COMMISSION
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:
: DOCKET NO. C59-14
: OAL DKT. NO. EEC 13265-15
:
:
: FINAL DECISION
:

PROCEDURAL HISTORY

This matter arises from a Complaint filed on December 26, 2014 by Angel Barquin asserting that Steven Rodas and Adam Parkinson, members of the West New York Board of Education (Board), violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 *et seq.* He specifically alleged that the Respondents violated N.J.S.A. 18A:12-24.1(b), (e) and (f) of the Code of Ethics for School Board Members (Code). The School Ethics Commission (Commission) notified the Respondents by letter dated January 6, 2015, that charges were filed against them and advised that they had 20 days to answer the Complaint.

On March 13, 2015 the Respondents filed a Partial Motion to Dismiss in lieu of an Answer on Counts 1, 2, 3 and 4 of the Complaint as well as their Answer to Count 5. The Complainant did not file a responsive statement thereto, pursuant to N.J.A.C. 6A:28-8.2(a).

By letter of April 2, 2015, the Commission notified the parties that this matter would be placed on the agenda for the Commission's meeting on April 28, 2015, in order to make a determination regarding the Respondents' Partial Motion to Dismiss.

At its meeting on April 28, 2015, the Commission voted to grant Respondents' Partial Motion to Dismiss on alleged violations of N.J.S.A. 18A:12-24.1(b) and (e) in Count 1, but denied the Motion to Dismiss alleged violations of N.J.S.A. 18A:12-24.1(f) in Count 1 and N.J.S.A. 18A:12-24.1(e) and (f) in Counts 2, 3 and 4. Further, the Commission directed the Respondents to file an Answer to the remaining allegations in Count 1 and all allegations in Counts 2, 3 and 4 within 20 days to supplement the Answer filed on March 31, 2015 on Count 5. The Respondents filed their Answer as directed on June 16, 2015.

On June 3, 2015, the parties were notified that the Commission would discuss the matter at its meeting on June 30, 2015 to review all of the pleadings filed. Pursuant to N.J.A.C. 6A:28-10.8(a), the Commission found the Complaint timely filed and voted to transmit the Complaint to the Office of Administrative Law (OAL) for a plenary hearing. The Complainant carried the burden to prove factually any violations of N.J.S.A. 18A:12-24.1(f) in Count 1, N.J.S.A. 18A:12-24.1(e) and (f) in Counts 2, 3 and 4, and N.J.S.A. 18A:12-24.1(e) in Count 5 under the Code of Ethics for School Board Members within the standards set forth at N.J.A.C. 6A:28-6.4.

The Complaint was transmitted to the OAL on August 21, 2015 for a *de novo* hearing on the alleged violations of the Code of Ethics for School Board Members, specifically N.J.S.A. 18A:12-24.1(e) and (f).

While at the OAL, the Respondents filed a Motion for Summary Decision on December 1, 2015. The Complainant did not file any opposition to the motion, as required by N.J.A.C. 1:1-12.5. The Administrative Law Judge (ALJ) closed the record on December 22, 2015. In an Initial Decision electronically transmitted to the Commission on December 28, 2015 and mailed to the parties on January 4, 2016, the ALJ granted the motion, based on the Complainant's failure to provide substantive evidence to support his claims, and dismissed the matter with prejudice.

On January 7, 2016 the Commission requested an extension of time to review the full record, including exceptions yet to be filed. The extension was granted until March 27, 2016. Neither party filed exceptions to the Initial Decision. At its meeting on January 26, 2016, the Commission adopted the findings and conclusions of the ALJ for the reasons expressed in the Initial Decision.

ANALYSIS

The Complainant bears the burden of factually proving any violations 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). See also, N.J.S.A. 18A:12-29(b). Moreover, the Complainant, as the non-moving party, is required to file a responsive pleading in opposition to the Motion.

DECISION

The Commission adopts the ALJ's Initial Decision as a Final Decision, granting summary decision to the Respondents and dismissing the remaining Counts of the Complaint with prejudice due to the Complainant's failure to file opposition to the Motion for Summary Decision as required by N.J.A.C. 1:1-12.5(b) and failure to factually substantiate the alleged violations. 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: February 24, 2016

Resolution Adopting Decision – C59-14

Whereas, pursuant to N.J.A.C. 6A:28-10.8(a), the Commission voted to transmit this matter to the Office of Administrative Law for hearing; and

Whereas, the Administrative Law Judge concluded in his Initial Decision that summary decision should be granted to the Respondents and the Complaint should be dismissed; and

Whereas, neither party filed exceptions in response to the ALJ's decision; and

Whereas, at its meeting of January 23, 2016, the Commission determined to adopt the Initial Decision of the ALJ as the Final Decision; and

Whereas, the Commission finds that the within decision accurately memorializes its adoption of the Initial Decision;

Now Therefore Be It Resolved, the Commission hereby adopts the within decision as a Final Decision and directs its 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 February 23, 2016.

Joanne M. Restivo
Acting Executive Director
School Ethics Commission