

School District of Jersey City as a Special Assistant of Instruction, a position that she has held since September 1999. Prior to that time, she served as Language Arts Supervisor from September 1990 to September 1999. As a supervisor of Language Arts, Ms. Ricci was responsible for the observation and evaluation of teachers to whom she was assigned. Respondent McGhee is a teacher at Jersey City Elementary School P.S. #9.

Ms. Ricci evaluated Ms. McGhee on January 26, 1995, as part of an evaluation of teachers in grades one through eight in her building. The Principal of Ms. McGhee's school knew that Ms. McGhee was Ms. Ricci's cousin, but the Principal said she believed that Ms. Ricci could evaluate Ms. McGhee impartially. The rating scale on the evaluation was as follows: S was for satisfactory; N.I. for needs improvement; and U for unsatisfactory. Ms. Ricci rated Ms. McGhee satisfactory in all performance factors. The written comments explaining the various areas were all very positive. The evaluation noted that Ms. McGhee was Teacher of the Year in 1994 and that she continues to exhibit good teaching skills.

ANALYSIS

The first issue, as noted by Ms. McGhee's attorney, is whether Ms. McGhee is subject to the School Ethics Act. The Act was intended to guide school officials in their conduct to ensure that the public trust would not be violated. N.J.S.A. 18A:12-23 of the Act defines "school officials" as a board member, an employee or officer of the New Jersey School Boards Association, but not including any member of the secretarial, clerical or maintenance staff of the association, or an administrator." Regulations have expanded the definition to include members of the board of trustees and administrators of charter schools. N.J.A.C. 6A:28-1.2.

As a teacher, Ms. McGhee fits none of the definitions of "school official." Ms. McGhee is a teacher with no supervisory responsibilities or a certificate certifying her as an administrator. Based on the foregoing, Ms. McGhee is not a school official subject to the School Ethics Act. Therefore, the Commission dismisses the complaint against Ms. McGhee for lack of jurisdiction.

The next issue before the Commission is whether the above facts establish that Ms. Ricci violated N.J.S.A. 18A:12-24(b) or (c) of the School Ethics Act by evaluating her cousin, Ms. McGhee. N.J.S.A. 18A:12-24(b) prohibits a school official using or attempting to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family, or others. Mr. McGhee alleges that Ms. Ricci made the biased evaluation to advance Ms. McGhee's position in a court proceeding in which she was involved.

Mr. McGhee filed his Complaint on June 19, 2000. The Commission has found that Ms. Ricci evaluated Ms. McGhee only once and that evaluation occurred in January 1995. The Commission's regulations provide at N.J.A.C. 6A:28-1.8(a) that "Anyone may file a complaint with the School Ethics Commission alleging a violation of the School Ethics Act within one year

of the alleged violation.”¹ Because the date of the evaluation is January 1995, the Complaint falls well outside of limitations period and therefore, must be dismissed on this basis.

DECISION

For the foregoing reasons, the Commission dismisses the Complaint against both Respondents.

This decision is a final decision of an administrative agency. Therefore, it is appealable only to the Superior Court--Appellate Division.

Paul C. Garbarini
Chairperson

¹ This regulation took effect on April 3, 2000.

Resolution Adopting Decision -- C08-00

Whereas, the School Ethics Commission has considered the pleadings and documents;
and

Whereas, the Commission lacks jurisdiction over the Complaint against Respondent McGhee and the complaint against Respondent Ricci is out of time and therefore dismisses the complaint; and

Whereas the Commission has reviewed a draft decision; and

Whereas, the Commission agrees with the draft decision;

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

Paul C. Garbarini, Chairperson

I hereby certify that the School
Ethics Commission adopted
this decision at its public meeting
on November 28, 2000.

Lisa James-Beavers
Executive Director