MICHAEL McGHEE,	:
	:
V.	:
	:
ANN MARIE McGHEE	:
and GLORIA RICCI,	:
JERSEY CITY BOARD OF EDUCATION,	:
HUDSON COUNTY	:
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BEFORE THE SCHOOL ETHICS COMMISSION Docket No.: C08-00 DECISION

PROCEDURAL HISTORY

This matter arises from a complaint filed by Michael McGhee on July 19, 2000 alleging that Respondents Ann Marie McGhee and Gloria Ricci violated the School Ethics Act, <u>N.J.S.A.</u> 18A:12-21 <u>et seq</u>. Specifically, Mr. McGhee alleges that Respondent Ricci evaluates her first cousin and lifelong friend, Respondent McGhee. He alleges that this relationship violates <u>N.J.S.A.</u> 18A:12-24(b) and (c).

Respondent Gloria Ricci filed her Answer to the Complaint stating that she evaluated Ms. McGhee only once in 1995. She said that she evaluated her at that time no differently than she would any other teacher. Respondent Ann Marie McGhee filed an Answer stating that she has been teaching for 27 years and has always received satisfactory evaluations. She too stated that the only evaluation she received from Respondent Ricci was in January 1995.

The Commission advised the parties that it would discuss this Complaint at its meeting of November 28, 2000. They were advised of their right to attend and present witnesses and testimony to aid in the Commission's investigation. No one appeared, but the attorney for Ms. McGhee wrote to argue that his client is not subject to the Commission's jurisdiction as she is not a "school official" under the Act. The Commission now dismisses the Complaint against Respondents McGhee and Ricci for lack of jurisdiction and the absence of a justiciable controversy, respectively.

FACTS

The Commission was able to discern the following facts on the basis of the pleadings, documents submitted and its investigation.

Complainant McGhee is the son of Respondent McGhee. Respondent McGhee is the first cousin of Respondent Ricci. Gloria Ricci is currently employed by the State-Operated

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. <u>N.J.S.A.</u> 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. <u>N.J.A.C.</u> 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 <u>N.J.S.A.</u> 18A:12-24(b) or (c) of the School Ethics Act by evaluating her cousin, Ms. McGhee. <u>N.J.S.A.</u> 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 <u>N.J.A.C.</u> 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