
FRANCES KEARNS

V.

**PATRICK GAGLIARDI,
HOBOKEN BOARD OF EDUCATION
HUDSON COUNTY**

:
:
: **BEFORE THE SCHOOL
ETHICS COMMISSION**
:
:
: **Docket No.: C19-01**
:
:
: **DECISION**
:

PROCEDURAL HISTORY

This matter arises from a complaint that the Superintendent of the Hoboken School District, Patrick Gagliardi, violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. when he allegedly permitted or negligently overlooked the improper use of school district mailing labels containing student names, student identification numbers and homeroom numbers, by Board members who used the labels to disseminate campaign literature for a mayoral campaign. Complainant claims that Mr. Gagliardi allowed the Board members to misuse public funds and confidential student information.

In his answer, Mr. Gagliardi denies that he permitted the release of any student information for campaign purposes and denies that he violated the Act. Mr. Gagliardi claims that he had no knowledge that student labels were being used in connection with a political campaign and did not review any materials that were released to the Board members in question. Mr. Gagliardi further asserted that he would not have released or approved such information for that purpose and immediately initiated the appropriate corrective action regarding the matter. Mr. Gagliardi stated that such corrective action included the enactment of policy requiring written permission before any student information is released.

The Commission invited the parties to attend the Commission's meeting on August 28, 2001, to present witnesses and testimony to aid in the Commission's investigation. Respondent appeared with counsel, Karen Murray, Esq. He presented witness testimony from Michele Russo, Board member; David Anthony, Board member; and Carmella Mezzina, Secretary to the Superintendent. Complainant did not appear.

During its public meeting of September 25, 2001, the Commission voted to find no probable cause to credit the allegation that Patrick Gagliardi violated the School Ethics Act. The Commission directed its staff to prepare a decision for adoption at the next meeting. The Commission adopted this decision at its meeting on October 23, 2001.

FACTS

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

Patrick Gagliardi is the Superintendent of the Hoboken School District. During the week of April 23, 2001, Mr. Gagliardi's office received a request from Board member Michele Russo for a mailing list with student names and addresses. Board members routinely requested student information from Mr. Gagliardi's office and his staff automatically provided the requested documentation. At that time, office policy did not require that routine requests for student information be in writing or that staff members receive permission from Mr. Gagliardi before releasing such information. Mr. Gagliardi informed his secretary, Carmella Mezzina of the request.¹ Ms. Mezzina contacted the necessary staff and had them prepare the mailing list, which was picked up by someone sent by Ms. Russo. Ms. Mezzina later received a call asking for mailing labels and not a list. Ms. Mezzina then had mailing labels prepared and they were in turned picked up by someone sent by Ms. Russo. Mr. Gagliardi had no first hand knowledge of the changed request for labels nor was he aware of the purpose for which they were to be used.

On April 27, 2001, Mr. Gagliardi learned that postcards containing campaign literature were being disseminated with student names, student identification numbers and homeroom numbers affixed to them. Mr. Gagliardi immediately directed his secretary to contact school principals and clerks and order them to cease all distribution of student labels. Mr. Gagliardi also advised the Board attorney of the incident. On April 30, 2001, Mr. Gagliardi assembled principals, vice principals, supervisors and clerical personnel and instructed them not to release any student information without his written permission and on May 1, 2001, he issued a memorandum memorializing the new procedure.

On May 21, 2001, the present complaint was filed with the School Ethics Commission alleging that Mr. Gagliardi violated the Act by permitting or negligently overlooking the appropriation of confidential student information for political purposes and related misuse of public funds.

¹ In testimony before the Commission, Mr. Gagliardi denied any knowledge of any request for a mailing list or labels from Michele Russo. However, he had told Department of Education investigators that he had received a request for a mailing list of students from Ms. Russo, which he passed on to his secretary. The Commission believes that the best account is that which takes place earlier in time to the actual event, which is the investigation account. Although the Commission is uncomfortable with the two versions of the event, it is satisfied that Mr. Gagliardi was unaware that Ms. Russo called back to request labels instead of a list or that the labels were ultimately used for political purposes.

ANALYSIS

Complainant did not allege any specific provision of the School Ethics Act that Patrick Gagliardi violated. However, the only applicable subsection is N.J.S.A. 18A:12-24(b), which provides:

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.

If a superintendent knowingly permitted board members to use confidential student information for political campaign purposes, he could be considered to be using his position to secure unwarranted privileges or advantages for others. In addition, since according to N.J.S.A. 19A:17-15, local school boards in New Jersey are empowered to appoint and fix the term of office for their superintendents, a superintendent's permission for a board member to use confidential student information for political purposes may be considered an attempt to use his official position to secure unwarranted privileges for himself. However, in the present case the facts do not indicate that Mr. Gagliardi knowingly gave such permission.

There are no facts to demonstrate that Mr. Gagliardi knowingly permitted certain Board members to obtain student information for political purposes that would give rise to a finding of a violation under N.J.S.A. 18A:12-24(b). The practice of Mr. Gagliardi's office was to grant routine requests made by Board members, along with those of student-related organizations, without notification to or permission from Mr. Gagliardi. Mr. Gagliardi's staff secretary received a routine request from a Board member for student labels with names and addresses and she provided what she thought to be the requested information. While the labels did contain additional information including student identification and homeroom numbers, Mr. Gagliardi did not review the labels before they were released and had no knowledge of the purpose for which they were requested.

Therefore, the Commission finds no probable cause to credit complainant's allegation that Mr. Gagliardi violated N.J.S.A. 18A:12-24(b) and dismisses this charge against him.

DECISION

For the foregoing reasons, the Commission finds no probable cause that Mr. Gagliardi violated the School Ethics Act and dismisses the complaint against him.

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

Robert W. Bender, Acting Chairperson

Resolution Adopting Decision – C19-01

Whereas, the School Ethics Commission has considered the pleadings filed by the parties, the documents submitted in support thereof and the information obtained from its investigation; and

Whereas, at its meeting of September 25, 2001, the Commission found no probable cause to credit the allegations that Respondent violated the School Ethics Act N.J.S.A. 18A:12-21 et seq. and therefore dismissed the charges against him; and

Whereas, the Commission requested that its staff prepare a decision consistent with the aforementioned conclusion; and

Whereas, the Commission has reviewed the draft decision and agrees with the decision;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision referenced as its decision in this matter and directs its staff to notify all parties to this action of the Commission's decision herein.

Robert W. Bender, Acting Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its public meeting on October 23, 2001.

Lisa James-Beavers
Executive Director