
JOSEPH C. KOLODZIEJ

V.

KAREN L. PERKINS
CLIFTON BOARD OF EDUCATION
PASSAIC COUNTY

:
:
: **BEFORE THE SCHOOL**
: **ETHICS COMMISSION**
:
: **Docket No.: C28-01**
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:
: **DECISION**
:

PROCEDURAL HISTORY

This matter arises from a complaint that Clifton School Board (Board) Business Administrator Karen Perkins violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. when she allegedly authorized reimbursement of expenses to Kenneth Kurnath, a member of the Board, for his attendance at the 2000 New Jersey Education Association (N.J.E.A.) Convention. Mr. Kurnath provided an itemized statement of his expenses, but did not submit receipts. Specifically, complainant alleges that Ms. Perkins violated N.J.S.A. 18A:12-24(a) and (b).

In her answer, Ms. Perkins asserted that Mr. Kurnath annually attended the N.J.E.A. convention and the Board routinely approved Mr. Kurnath's request for reimbursement of related expenses upon the motion and vote of the Board following his return. Ms. Perkins claimed that it was also customary for Mr. Kurnath to submit such itemized statements, without receipts and that she has accepted this form of documentation since 1992. Ms. Perkins further claimed that she is not in violation of the Act given the Board's vote to approve reimbursement to Mr. Kurnath and Board Policy.

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. All parties appeared.

During its public meeting of September 25, 2001, the Commission voted to find no probable cause to credit the allegations in the complaint. 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, testimony and its investigation.

Karen Perkins is the Business Administrator for the Clifton Board of Education. Ms. Perkins accepted Mr. Kurnath's request for reimbursement of expenses related to his attendance at the 2000 N.J.E.A. convention. Mr. Kurnath submitted an itemized statement of expenses, without receipts, as he had done in the past. Ms. Perkins has accepted Mr. Kurnath's itemized statements since she was appointed Business Administrator in 1992.

Following Mr. Kurnath's return from the 2000 N.J.E.A. convention, the Board moved to approve Mr. Kurnath's request for reimbursement at its January 10, 2001 meeting. Complainant objected to the Board's decision and claimed that Board policy required Mr. Kurnath to submit receipts as documentation of his expenses. Board Policy 9250 states, in pertinent part, that out-of pocket expenses of Board members must be approved by motion of the Board and that such expenses must be for the Board member only, and be itemized and documented.

In the past, the Board has accepted Mr. Kurnath's itemized statements of expenses for such trips and approved his requests for reimbursement, without requiring him to provide receipts. Complainant voted in favor of the reimbursement in 1999, but did so believing that Mr. Kurnath submitted receipts. However, after consultation with the Board's attorney, Mr. Kurnath returned the aforementioned reimbursement at the Board's February 28, 2001 meeting. Mr. Kurnath further informed the Board that in the future he would submit receipts when requesting reimbursement for expenses.

ANALYSIS

Complainant urges the Commission to find that Ms. Perkins violated N.J.S.A. 18A:12-24(a) and (b).

N.J.S.A. 18A:12-24(a) provides:

No school official shall engage in any professional activity which is in substantial conflict with the proper discharge of his duties in the public interest.

Complainant argues that Ms. Perkins engaged in professional activity which was in substantial conflict with the proper discharge of her duties when she accepted Mr. Kurnath's request for reimbursement following his return from the 2000 N.J.E.A. convention, without the Board's authorization of his attendance there. Complainant claims that Ms. Perkins failed to adhere to Board Policy 9240 which was in violation of N.J.S.A. 18A:12-24(a).

Board Policy 9240 provides in pertinent part:

...the Board recommends that in addition to sending the mandated delegate to the New Jersey School Boards Association's Delegate Assemblies, the Board send representatives to such educational conferences, workshops, conventions and seminars as they shall decide upon each year.

Board Policy 9240 does not contain specific language which mandates that a Board member's attendance at educational events be pre-approved. There are no facts to show that Ms. Perkins engaged in any professional activity which was in substantial conflict with the proper discharge of her duties. Therefore, the Commission finds no probable cause that Ms. Perkins violated N.J.S.A. 18A:12-24(a).

Complainant further claims that Ms. Perkins violated 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.

Complainant cites to Board policy to show that Ms. Perkins used her position to receive unwarranted privileges pursuant to N.J.S.A. 18A:12-24(b).

Board policy 9250 reads:

...The [members of the Clifton Board of Education] may receive reimbursement for expenses in accordance with Board policy.

...[The Board] recognizes that from time to time Board members will incur out-of-pocket expenses in the service and at the direction of the Board. Such expenses must be approved by a motion of the Board either in advance or at the meeting immediately following the expenditure or receipt of the bill. Such expenses shall be for the Board member only, and shall be itemized and documented.

The facts show that Ms. Perkins' acceptance of Mr. Kurnath's itemized statement was consistent with Board practice, if not policy. She accepted Mr. Kurnath's statement, without requiring him to submit receipts, as she had done without issue since 1992. While Board Policy 9250 requires documentation of expenses, the Board waived its right to require receipts as documentation by its acceptance of Mr. Kurnath's itemized statements and approval of his requests for reimbursement in the past. In the future, the Board can request receipts based on the policy, but there are insufficient facts to demonstrate that Ms. Perkins used her position to secure unwarranted privileges for Mr. Kurnath in violation of N.J.S.A. 18A:12-24(b).

In light of the facts presented, Ms. Perkins did not engage in activity that presented a conflict to her proper discharge of duties nor did she use or attempt to use her official position to secure unwarranted privileges for herself or Mr. Kurnath. Therefore, the Commission finds no probable cause that Ms. Perkins violated N.J.S.A. 18A:12-24(a) or (b).

DECISION

For the foregoing reasons, the Commission finds no probable cause that Ms. Perkins violated the School Ethics Act and dismisses the complaint against her.

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

Resolution Adopting Decision – C28-01

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 her; 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.

Paul C. Garbarini, 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

