
IN THE MATTER

OF

JUAN SANTIAGO
PATERSON BOARD OF EDUCATION
PASSAIC COUNTY

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**BEFORE THE SCHOOL
ETHICS COMMISSION**

Docket No.: C01-03

DECISION

PROCEDURAL HISTORY

The above-captioned matter arises from a complaint filed by Paterson Board of Education (Board) member Joseph Atallo against Board member Juan Santiago alleging that Mr. Santiago violated N.J.S.A. 18A:12-24.1(c), (d) and (j) of the Code of Ethics for School Board Members of the School Ethics Act when he wrote a letter to the superintendent of the Paterson school district requesting that assistant superintendent, Dr. John Sico be demoted from his position and copied Dr. Sico's subordinates.¹

Mr. Santiago filed an answer to the complaint on February 25, 2003 admitting that he did write the above-referenced letter. Mr. Santiago denies that his actions were in violation of any provision of the Code of Ethics.

The Commission invited the parties to its March 25, 2003 meeting to present witnesses and testimony to aid in the Commission's investigation. Dr. Atallo appeared *pro se*. Mr. Santiago appeared and was represented by counsel, Gregory Johnson, Esquire. After hearing testimony, the Commission voted at its public meeting to find probable cause to credit the allegation that Mr. Santiago's conduct was in violation of the Code of Ethics section N.J.S.A. 18A:12-24.1(j). The Commission found no probable cause to credit the allegation that Mr. Santiago violated N.J.S.A. 18A:12-24.1(c) and (d) of the Code of Ethics

The Commission found that the material facts were not in dispute with respect to the issue upon which it found probable cause and, therefore, the Commission advised the parties that it would decide the matter on the basis of written submissions pursuant to N.J.A.C. 6A:28-1.14(b). Mr. Santiago was invited to provide a written submission to the Commission within 30 days of the date of the probable cause decision, May 14, 2003, and set forth why the Commission should not find Mr. Santiago in violation of N.J.S.A. 18A:12-24.1(j) for the above stated action. He was also told that his written submission should include the respondent's position on an appropriate sanction should the Commission determine that the Act was violated.

¹ Although Dr. Atallo did not cite these specific sections, he quoted the language from these provisions.

The Commission did not receive a response from Mr. Santiago. It discussed this matter at its meeting of June 24, 2003 and voted to find Mr. Santiago in violation of N.J.S.A. 18A:12-24.1(j) and recommended a penalty of reprimand.

FACTS

Based on the pleadings, documents and testimony, the Commission found the following facts to be undisputed.

Mr. Santiago became a member of the Paterson Board of Education (Board) in April 2002. At all times relevant to this complaint, he was serving as Board president.

On May 1, 2002, the Panther Academy held an induction ceremony for its new students at the Passaic County Community College (PCCC).² The ceremony was planned and organized by Dr. Sico. Several students in the district were honored at the ceremony, including eleven students from the district's school no. 11. Board members Dr. Anthony Davis, Dr. Jonathan Hodges and Dr. Joseph Atallo were present. Mayoral candidate William Kline also attended the ceremony. The superintendent of schools, the building principals from school no. 11 and the other Board members were not officially notified of the event. After the ceremony, a reception was held in the PCCC cafeteria where "Vote for Kline" buttons were made available.

Mr. Santiago discussed the aforementioned events with those Board members who were not formally invited to the ceremony. Mr. Santiago also met with the superintendent of schools, Dr. Edwin Duroy, to advise him that Dr. Sico had engaged in what he believed to be prohibited political activity for school employees. Dr. Duroy recommended that Mr. Santiago set forth his complaint in a letter to him.

In his letter to Dr. Duroy, dated May 3, 2002, Mr. Santiago alleged that Dr. Sico concealed the induction ceremony for new students of the Panther Academy from certain Board members for political purposes. Mr. Santiago further requested that the superintendent demote Dr. Sico from his position as assistant superintendent of schools. The letter was copied to the Board, Dr. Sico, assistant superintendents, building principals, the State Department of Education and the New Jersey School Boards Association.

ANALYSIS

The Commission found a violation to credit the allegation that Mr. Santiago's conduct, particularly in copying Dr. Sico's subordinates on his letter asking the superintendent to demote Dr. Sico, was in violation of N.J.S.A. 18A:12-24.1(j). It provides:

I will refer all complaints to the chief administrative officer and will act on the complaints after failure of an administrative solution.

² The Panther Academy recruits 8th grade students of the Paterson School District and other districts to participate in math and science enrichment courses.

The Commission finds that the board president and superintendent were not properly notified and political activity occurred at the Panther Academy ceremony. Therefore, the Commission does not find any fault with the fact that Mr. Santiago wrote the letter to the chief administrative officer as he requested. Clearly, such action is what N.J.S.A. 18A:12-24.1(j) contemplates when a board member has or hears a complaint. The Commission finds that a violation of the Code of Ethics occurred; however, when, instead of writing the letter in confidence and waiting for the chief administrative officer's response to the letter, he copied it to the Board, assistant superintendents, building principals, the State Department of Education and the New Jersey School Boards Association. Building principals are school employees under Dr. Sico's supervision. Personnel matters are not supposed to be addressed publicly pursuant to N.J.S.A. 10:4-12(b). Here, Mr. Santiago did not wait for an administrative solution before notifying Dr. Sico's staff and others of his complaint. The Commission concludes that by so doing, Mr. Santiago violated N.J.S.A. 18A:12-24.1(j).

DECISION

For the foregoing reasons, the Commission concludes that Mr. Santiago acted on his complaint prior to the failure of an administrative solution in violation of N.J.S.A. 18A:12-24.1(j) of the Code of Ethics for School Board Members. Due to the conduct that precipitated Mr. Santiago's action, specifically Dr. Sico's failure to properly notify Mr. Santiago of a District-related event and the distribution of political buttons at the event, the Commission recommends that the Commissioner of Education impose a penalty of reprimand.

This decision has been adopted by a formal resolution of the School Ethics Commission. This matter shall now be transmitted to the Commissioner of Education for action on the Commission's recommendation **for sanction only**, pursuant to N.J.S.A. 18A:12-29. Within thirteen (13) days from the date on which the Commission's decision was mailed to the parties, Mr. Santiago may file written comments on the recommended sanction with the Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, NJ 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the School Ethics Commission and all other parties.

Paul C. Garbarini, Chairperson

Resolution Adopting Decision – C01-03

Whereas, the School Ethics Commission has considered the pleadings filed by the parties, the documents submitted in support thereof and the testimony presented; and

Whereas, at its meeting of June 24, 2003, the Commission found that Juan Santiago violated N.J.S.A. 18A:12-24.1(j) of the Act and recommended that the Commissioner of Education impose a sanction of reprimand; and

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

Whereas, at its meeting of July 22, 2003, the Commission 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 July 22, 2003.

Lisa James-Beavers
Executive Director