
**LONG BRANCH SCHOOL
EMPLOYEES ASSOCIATION**

V.

**AVERY W. GRANT,
LONG BRANCH BOARD OF EDUCATION
MONMOUTH COUNTY**

**BEFORE THE SCHOOL
ETHICS COMMISSION**

Docket No. C15-03

DECISION

PROCEDURAL HISTORY

This matter arises from a complaint that the Long Branch Board of Education (Board) member, Avery W. Grant, violated the Code of Ethics for School Board Members (Code of Ethics), N.J.S.A. 18A:12-24.1. First, Complainant alleges that Mr. Grant individually and without the approval of the Board held a meeting with members of the public concerning the District's boys' varsity basketball team and coach. Second, Complainant alleges that Mr. Grant protested a closed Board meeting on the subject. Third, Complainant alleges that Mr. Grant issued a press release regarding the matter. Specifically, Complainant alleges that Mr. Grant's actions were in violation of sections (c), (d), (e), (f), and (g) of the Code of Ethics.

In his answer, Mr. Grant said that the NAACP president asked him to meet with concerned members of the public. Mr. Grant admits that he met with members of the public to discuss their concerns regarding the welfare of student athletes in the District. Mr. Grant further admits that he issued a press release stating that he walked with a picket sign to protest a closed meeting, but denies that it was a Board meeting. Mr. Grant denies that his actions violated any provision of the Code of Ethics.

The Commission invited the parties to attend the Commission's meeting on May 27, 2003, to present witnesses and testimony to aid in the Commission's investigation. Sanford R. Oxfeld, Esquire, appeared on behalf of the Complainant. Mr. Grant appeared represented by counsel, Elizabeth F. Murphy, Esquire. The Commission also heard testimony from Lorenzo Dangler, president of the local chapter of the NAACP; Peter E. Genovese, III, Business Administrator for the Board; Theresa Schaubert, president of the Long Branch School Employees Association; and Lucille Perez, vice-president of the Board.

During its public meeting of May 27, 2003, the Commission voted to that Mr. Grant did not violate the Code of Ethics, N.J.S.A. 18A:12-24.1. The Commission directed its staff to prepare a decision for adoption at the next meeting. The Commission adopted this decision at its meeting on July 22, 2003.

FACTS

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

Avery Grant has been a member of the Long Branch Board of Education since 1998 and at all times relevant to the complaint was a member of the local chapter of the National Association for the Advancement of Colored People (NAACP). At the Board meeting on January 22, 2003, certain members of the public raised concerns regarding the Long Branch High School boys' basketball team and coach. Specifically, the president of the local NAACP, Lorenzo Dangler, requested that a meeting be held to address the issue. Mr. Dangler requested that Mr. Grant attend the meeting. Board president, Armand Zambrano, responded that the proper protocol was to express their concerns to the building principal and then to the Superintendent. Mr. Grant recommended that the matter be referred to the New Jersey State Interscholastic Athletic Association (NJSIAA) and offered to meet with them at the headquarters of the NAACP in Long Branch to discuss the problem and obtain information. On January 23, 2003, Mr. Grant met with the District Superintendent to relay the concerns of the public. Mr. Grant held a meeting with those concerned members of the public at the NAACP headquarters on January 28, 2003.

On February 5, 2003 Mr. Zambrano called a meeting and specifically asked Mr. Grant not to attend. Mr. Grant did not attend the meeting. Board member Lucille Perez testified that she was advised by Mr. Zambrano that no Board members were to attend the February 5, 2003 meeting. Ms. Perez further testified that two school administrators, the president of the Long Branch Education Association, the school athletic director and Mr. Dangler were present at the meeting.

Mr. Grant protested the February 5, 2003 meeting by carrying a picket sign outside of the building where the meeting was held. The picket sign was addressed to the Superintendent, athletic director and the boys' basketball team coach and signed "Avery W. Grant, P.E., Member of the Long Branch Board of Education." The sign read, "Our athletes are students, too--They must learn - Reading - Riting-Rithmetic and to Live."

The same day as the meeting, a press release was printed and made available for immediate publication, entitled, "Long Branch Board Member Protests Meeting Exclusion". In the document, Mr. Grant set forth:

My picketing today was prompted by not being able to attend a meeting of concerned parents, school administrators, athletic staff, and NAACP president, Lorenzo Dangler.

ANALYSIS

Complainant urges the Commission to find that Mr. Grant violated the Code of Ethics N.J.S.A. 18A:12-24.1(c), (d), (e), (f) and (g). Pursuant to N.J.S.A. 18A:12-29(b), the complainant has the burden of proving factually that the respondent's conduct is in violation of the Code of Ethics. N.J.S.A. 18A:12-24.1(c) provides.

I will confine my board action to policy making, planning and appraisal, and I will help frame policies and plans only after the board has consulted those who will be affected by them.

The Commission notes that Mr. Grant offered to meet with members of the public to obtain information regarding their concerns related to student athletes in the District. Prior to the meeting, Mr. Grant met with the District Superintendent regarding the problem. The Commission notes that Mr. Grant picketed the February 5, 2003 meeting which he was prohibited from attending. Thereafter, he issued a press release to that effect. Based on the information provided, it appears that Mr. Grant consulted with the Superintendent before holding a meeting with the public and did not attempt to independently resolve the matter. Further, the Commission finds that Mr. Grant's protest of the above-referenced meeting was an individual and private action that does not constitute Board action. The Commission can, therefore, discern no attempt on the part of Mr. Grant to take Board action that exceeds his duties of policy making, planning, or appraisal. Based on the foregoing, the Commission does not find that Mr. Grant violated N.J.S.A. 18A:12-24.1(c).

Next, Complainant alleges that Mr. Grant violated N.J.S.A. 18A:12-24.1(d), which provides:

I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.

The Commission has found that Mr. Grant relayed the concerns of the public to the Superintendent of schools. Mr. Grant's consultation with the Superintendent is precisely what the above section requires of board members under such circumstances. In addition, the Commission notes that the NAACP president requested the meeting regarding the District's student athletes, during the Board's January 22, 2003 public meeting. In response, Mr. Grant volunteered to attend such a meeting. The Commission finds that Mr. Grant clearly made the Board aware of his intended action. There is no information to show that the Board objected to his answer to the request. Complainant takes issue with the sign Mr. Grant used in his protest of the February 5, 2003 meeting which read, "Our athletes are students too- they must learn Reading -Riting- Rithmatic and to Live". The Commission, however, has found that Mr. Grant's protest did not constitute Board action. Therefore, Mr. Grant was not administering the schools by picketing the meeting. For the foregoing reasons, the Commission finds that there is insufficient information to demonstrate that Mr. Grant failed to work together with his

fellow Board members or administered the schools. Therefore, the Commission finds that there is no probable cause to credit the allegation that Mr. Grant violated N.J.S.A. 18A:12-24.1(d).

Complainant also alleges that Mr. Grant violated N.J.S.A. 18A:12-24.1(e), which provides:

I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

The Commission has found that Mr. Grant took private action when he protested the February 5, 2003 meeting. However, the Commission finds that there is insufficient evidence to show that the Board was in any way compromised by his conduct. The Commission, therefore, finds that Mr. Grant did not violate N.J.S.A. 18A:12-24.1(e).

Complainant further alleges that Mr. Grant violated N.J.S.A. 18A:12-24.1(f), which provides:

I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

Mr. Grant is a member of the NAACP who attempted to gather information regarding the public's concern for the District's student athletes, after consulting with the Superintendent. There is no evidence to show that Mr. Grant surrendered his independent judgment to special interest or partisan political groups or that he used the school for personal gain or the gain of friends. The Commission, therefore, finds that Mr. Grant did not violate N.J.S.A. 18A:12-24.1(f).

Last, the Complainant alleges that Mr. Grant's conduct was in violation of N.J.S.A. 18A:12-24.1(g), which provides:

I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

The Commission finds that there is no evidence to demonstrate that Mr. Grant disclosed confidential matters pertaining to the schools or failed to provide accurate information and interpret to the staff the aspirations of the community for its school. The Commission, therefore, does not find that Mr. Grant violated N.J.S.A. 18A:12-24.1(g).

DECISION

For the foregoing reasons, the Commission finds no violation of the Code of Ethics 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.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C15-03

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

Whereas, at its meeting of May 27, 2003, the Commission found insufficient evidence that Avery W. Grant violated the Code of Ethics for School Board Members N.J.S.A. 18A:12-24.1 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.

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

