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**IN THE MATTER OF  
MARTIN AROCHO,**

**NEW BRUNSWICK  
BOARD OF EDUCATION  
MIDDLESEX COUNTY**

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:  
: **Before the School**  
: **Ethics Commission**  
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: **Docket No.: C16-99**  
:  
: **DECISION**  
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### **PROCEDURAL HISTORY**

This matter arises from a complaint filed by Brian Villa on August 2, 1999 alleging that New Brunswick Board of Education member Martin Arocho violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq., by voting for a resolution that the Board contract with the Puerto Rican Action Board (PRAB) and by serving on the Board while being a member of the PRAB. The complainant alleged that respondent violated N.J.S.A. 18A:12-24(c) and (d). Mr. Arocho responded in his answer that he was never a member of the PRAB, but explained that in November 1997, he became a salaried employee of the PRAB. On January 31, 2000, the Commission found probable cause that respondent violated N.J.S.A. 18A:12-24(c) by voting on the contract when he was an employee of the PRAB and dismissed the charge that he violated N.J.S.A. 18A:12-24(d). The Commission now finds that Mr. Arocho violated N.J.S.A. 18A:12-24(c) and recommends that the Commissioner of Education impose a penalty of censure.

The parties were invited to testify at the Commission's meeting of October 26, 1999. However, as the Commission did not have a quorum to discuss the matter, it had to reschedule for December 21, 1999. Counsel for Mr. Arocho was unavailable for the November meeting. In December, respondent appeared with counsel, along with Mr. Villa, and testified before the Commission. No decision was rendered at that meeting. The Commission's regularly scheduled meeting of January 25, 2000 was canceled due to the snowstorm that closed the offices of the State of New Jersey. Therefore, a special meeting of the Commission was held on January 31, 2000. At that time, the Commission rendered a decision finding probable cause that Mr. Arocho violated N.J.S.A. 18A:12-24(c). It directed staff to prepare a determination advising that it would accept a written submission as to whether Mr. Arocho's conduct constituted a violation of N.J.S.A. 18A:12-24(c) since the material facts were undisputed.

At the Commission's special meeting of January 31, 2000, the Commission found probable cause to credit the allegation that Martin Arocho violated N.J.S.A. 18A:12-24(c) when he participated voted in favor of a resolution to contract with the Puerto Rican Action Board (PRAB) when he was an employee of the PRAB. The Commission found no probable cause and dismissed the allegation that Mr. Arocho violated N.J.S.A. 18A:12-24(d). The Commission believed that Mr. Arocho could continue to hold his employment with the PRAB and serve on the Board without prejudice to his official board duties so long as he abstained from matters

concerning PRAB. The Commission found that the material facts were not in dispute regarding his employment and his vote on the resolution. Therefore, it invited respondent to submit a written statement on whether respondent's conduct violated N.J.S.A. 18A:12-24(c) of the Act.

The Commission received a timely submission from Mr. Arocho. Mr. Villa also submitted a written statement although he had not been requested to file one. The Commission considered it nonetheless before reaching its determination.

At its meeting of May 23, 2000, the Commission rendered this decision finding Mr. Arocho in violation of N.J.S.A. 18A:12-24(c) and recommending a penalty of censure.

## **STATEMENT OF FACTS**

The Commission finds the following facts to be undisputed.

In November 1997, the PRAB hired Mr. Arocho as a Youth Outreach Worker. As a Youth Outreach Worker, he coordinates social services and community services of the organization. The program that he coordinates is funded by the New Jersey State Department of Community Affairs through a grant to the PRAB. Mr. Arocho's employment does not involve the PRAB's pre-kindergarten services to children in the City of New Brunswick.

On July 28, 1998, the New Brunswick Board of Education considered whether the Board should enter into a contract with the PRAB to provide pre-kindergarten services to four-year old children residing within the City of New Brunswick. The PRAB had previously provided such services to the Board. Mr. Arocho voted in favor of the contract.

Mr. Hendricks, on behalf of Mr. Arocho, agreed with the above facts, but asked the Commission to also include in the undisputed facts that the Board first contracted with the PRAB to provide pre-kindergarten services to the district in July 1993, prior to Mr. Arocho's employment with the PRAB in November 1997. He added that Mr. Arocho voted in favor of the contract in 1997 when he first became a board member and he was employed by the United States Postal Service. He also adds that the July 28, 1998 resolution to provide pre-kindergarten services was a renewal contract and the vote to do so was unanimous at six to zero (with one member absent). Mr. Arocho abstained on the vote in 1999. Again the vote to renew the contract was unanimous.

Last, Mr. Hendricks notes on behalf of Mr. Arocho that the PRAB is a non-profit charitable group with a stated mission to provide social services and community outreach for the Hispanic community in New Brunswick. Mr. Arocho was hired by PRAB to work under a grant provided by the New Jersey Department of Community Affairs, Division of Hispanic Services. He has no involvement in the pre-kindergarten program.

The Commission finds that the facts presented by Mr. Hendricks are undisputed and hereby incorporates them into its Statement of Facts in this case.

## **ANALYSIS**

The question before the Commission is whether Mr. Arocho violated N.J.S.A. 18A:12-24(c) of the Act by voting on the contract with the PRAB. N.J.S.A. 18A:12-24(c) provides:

No school official shall act in his official capacity in any matter in which he, a member of his immediate family, or a business organization in which he holds an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family.

The Commission concluded in its probable cause determination that Mr. Arocho had a financial involvement with the PRAB since he was employed by that organization. In his written submission, Mr. Arocho stresses that PRAB is a non-profit corporation and that his salary is not dependent on the contract with the Board since his salary is funded through the DCA. The Commission does not find these arguments persuasive in the context of N.J.S.A. 18A:12-24(c). Subsection c requires the Commission to inquire as to whether the public would reasonably expect that the school official could not be objective in light of his connection to the matter. The Commission finds that the public would reasonably conclude that he could not. Therefore, the Commission concludes that Mr. Arocho had an indirect financial involvement with PRAB receiving a contract with the Board that might reasonably be expected to impair his objectivity or independence of judgment in violation of N.J.S.A. 18A:12-24(c).

## **DECISION**

For the foregoing reasons, the Commission finds that respondent Martin Arocho violated N.J.S.A. 18A:12-24(c) of the School Ethics Act.

In determining the penalty, the Commission considered that Mr. Arocho had been serving on the Board for over a year at the time of the vote, so he should have attended training for new board members, which is required to take place in the first year. However, the Commission also considered the fact that this was not a new contract, but a renewal of a contract to which the Board had been a party since 1993. Based on these factors and all of the facts and reasoning set forth above, the Commission recommends that the Commissioner of Education impose a penalty of censure.

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, any party 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 Mr. Villa.

Respectfully submitted,

Paul C. Garbarini  
Chairperson

### **Resolution Adopting Decision – C16-99**

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

Whereas, the Commission found probable cause to credit the allegations that Mr. Arocho violated N.J.S.A. 18A:12-24(c) of the School Ethics Act; and

Whereas, the Commission reviewed the written submissions of the parties in response to the finding of probable cause; and

Whereas, the Commission now finds that respondent violated the School Ethics Act and believes that a censure would be the appropriate penalty;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision referenced as its decision in this matter finding Martin Arocho in violation of the Act and recommends that the Commissioner of Education impose a penalty of censure.

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Paul C. Garbarini, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on May 23, 2000.

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Lisa James-Beavers  
Executive Director