

FACTS

Mary Adams was elected to the Fairfield Board of Education in April 2000. Her husband is the owner of Adams Printing. She works part-time for the business and receives a salary. The minutes for the Board's November 15, 2001 meeting reflect that she voted in favor of a bill list on that date that contained a bill submitted by Adams Printing in the amount of \$103.00. The minutes from the Board meeting of January 24, 2002 reflect that on that date she voted in favor of a bill list that contained a bill submitted by Adams Printing in the amount of \$611.00. The minutes from the July 25, 2002 Board meeting reflect that on that date she voted in favor of a bill list that contained a bill submitted by Adams Printing in the amount of \$686.00.

Board member Kevin Fox, the previous president of the Board, advised Ms. Adams of the need to abstain on matters concerning Adams Printing. The minutes of the meetings of November 2001 and January 2002 note that Board member Fox abstained from an item on each of the bill lists.

ANALYSIS

Complainant alleged that Ms. Adams' conduct on November 15, 2001, January 24, 2002 and July 25, 2002 violated N.J.S.A. 18A:12-24(c), which 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.

In her answer, Ms. Adams set forth, despite the Board minutes to the contrary, that at three separate meetings, the Board Secretary not only did not hear her abstain from voting on bills submitted by Adams Printing, but erroneously heard Ms. Adams vote "yes." Ms. Adams further set forth that on three separate occasions, she reviewed the minutes, but did not see that she had been recorded as voting "yes" when she had actually abstained because she did not have enough time to review the minutes and assumed them to be accurate. Ms. Adams admitted that she was aware that it is a violation of the School Ethics Act to vote on a bill payment to her husband's company.

In its decision finding probable cause, the Commission referred to the Open Public Meetings Act (OPMA) which provides:

Each public body shall keep reasonably comprehensible minutes of all its meetings showing the time and place, the members present, the subjects considered, the action taken, the vote of each member, and any other

information required to be shown in the minutes by law, which shall be promptly available to the public to the extent that making such matters public shall not be inconsistent with [N.J.S.A. 10:4-12]. [N.J.S.A. 10:4-14].

The Commission pointed to the plain language of the statute which clearly shows that the minutes of public bodies are to demonstrate the action taken and the vote of each member. The Commission noted that if a board member argues that she did not vote in the way that the minutes indicate after the minutes are approved and made available to the public, the OPMA would be undermined.

In her response to the Commission's finding of probable cause, Ms. Adams set forth that she accepts responsibility for the violation alleged due to her failure to correct the minutes of the above-referenced Board meetings.

The Commission now finds that since Ms. Adams' husband is a member of her immediate family pursuant to N.J.S.A. 18A:12-23, and owns of Adams Printing, he has a direct financial involvement in matters concerning Adams Printing that might reasonably be expected to impair her objectivity or independence of judgment. The Commission further finds that since Ms. Adams is an employee of Adams Printing, she has an indirect financial involvement in matters concerning the company that might reasonably be expected to impair her objectivity. The Commission therefore finds that Ms. Adams' votes to approve a payment to her husband's company constitutes acting in her official capacity in a matter in which she or a member of her immediate family has a direct or indirect financial involvement in violation of N.J.S.A. 18A:12-24(c).

DECISION

For the foregoing reasons, the Commission finds Mary Adams in violation of N.J.S.A. 18A:12-24(c) of the School Ethics Act for voting on bill lists on November 15, 2001, January 24, 2002 and July 25, 2002 containing payments to Adams Printing.

PENALTY

The Commission has considered the nature of the offense and notes that in her response, Ms. Adams acknowledges that she acted in violation of the Act and has taken action to ensure that she reviews in detail the minutes of each meeting in advance of any vote for approval of the minutes submitted. The Commission finds that the appropriate penalty for Ms. Adams' violation in this case is a reprimand.

This decision, having been adopted by the School Ethics Commission, 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, the respondent 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 – C44-02

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

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

Whereas, the Commission reviewed the written submissions of Ms. Adams 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 reprimand 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 Mary Adams in violation of the Act and recommends that the Commissioner of Education impose a penalty of reprimand.

Paul C. Garbarini, Chairman

I hereby certify that the School Ethics Commission adopted this decision at its public meeting on May 1, 2003.

Lisa James-Beavers
Executive Director