

IN THE MATTER	:	
	:	BEFORE THE SCHOOL
OF	:	ETHICS COMMISSION
	:	
RANDIE ZIMMERMAN	:	SEC Docket No.: C49-02
<i>ROCKY HILL BOARD OF EDUCATION,</i>	:	
<i>SOMERSET COUNTY</i>	:	DECISION
	:	

PROCEDURAL HISTORY

This matter arises from a complaint alleging that Rocky Hill Township Board of Education (Board) member Randie Zimmerman violated the Code of Ethics of the School Ethics Act, N.J.S.A. 18A:12-21 et seq., when she investigated a complaint by a member of the public and drafted a letter that appeared to have the endorsement of her Board. The complaint alleged that Ms. Zimmerman took private action that may compromise the board in violation of N.J.S.A. 18A:12-24.1(e); used the schools for personal gain or for the gain of friends in violation of N.J.S.A. 18A:12-24.1(f); failed to provide accurate information in violation N.J.S.A. 18A:12-24.1(g); and failed to refer all complaints to the chief administrative officer and act on the complaints at public meetings only after the failure of an administrative solution in violation of N.J.S.A. 18A:12-24.1(j) of the Code of Ethics within the Act.

Ms. Zimmerman filed her answer to the complaint setting forth that she tried to contact the superintendent in order to address her neighbor’s concerns, but her calls were not returned. It was only then that she went to the school to investigate the neighbor’s concerns and eventually wrote the letter that became the subject of this complaint. She denied having violated any provision of the Code of Ethics.

The Commission discussed the case at its meeting on March 25, 2003. The parties appeared, Ms. Zimmerman with counsel. At its public meeting on that date, the Commission voted to find probable cause to credit the allegations in the complaint that Ms. Zimmerman violated N.J.S.A. 18A:12-24.1(e) and (g). The Commission found no probable cause that respondent’s conduct violated N.J.S.A. 18A:12-24.1(f) or (j). The Commission found that the material facts were not in dispute and therefore agreed to accept a written submission from Ms. Zimmerman.

The Commission received a timely written submission from Ms. Zimmerman in which she denied having committed any violation of the Code of Ethics for School Board Members. However, in the event that the Commission reaches a different conclusion, she asserted that the lowest sanction of reprimand would be the appropriate penalty.

FACTS

The Commission was able to discern the following facts based on the pleadings, documents submitted and testimony. The Commission found these facts to be undisputed.

At all times relevant to this complaint, complainant Ms. Regan-Seither and Ms. Zimmerman were members of the Rocky Hill Township Board of Education. Ms. Zimmerman has been a member since 1998. Since April 2001, Ms. Zimmerman has served as the president of the Board. Rocky Hill sends all of its students to the Montgomery School District.

On or about September 13, 2002, a parent of a child who is sent to the Montgomery School District and who happens to be a neighbor of Ms. Zimmerman, expressed concerns to Ms. Zimmerman regarding her ill child being placed in a kindergarten classroom that appeared to her to be a large, windowless closet. In response, Ms. Zimmerman tried to contact the superintendent, Dr. Stuart Schnur, but she was unable to reach him.

On September 18, 2002, Ms. Zimmerman personally appeared at the Village School to discuss the matter with the school principal, but the principal refused to see her without an appointment. On September 25, 2003, she informed members of the Board, without having the issue placed on the agenda, that she intended to return to the school on parents' night to see whether the parent's concerns were warranted. The Board did not discuss any specific actions that Ms. Zimmerman would undertake on the Board's behalf nor was there any motion made regarding any such action.

On September 25, 2002, at parents' night, Ms. Zimmerman was informed that one of the parents had drafted a letter to Dr. Schnur. That parent requested that the other parents who were there sign and forward copies of the letter to him. Although complainant alleged that Ms. Zimmerman had the letters at the Board meeting, Ms. Zimmerman testified that she obtained a copy of the letter on computer disk from a parent and printed it out when she went home with her own signature. In any event, she forwarded the parent's letter to Dr. Schnur with a cover letter that she drafted. The parent's letter sets forth that the classroom in question is a converted resource/storage room that has only one exit so the children have no escape route if there is a fire outside the classroom door. The letter further provided that the room has no window for sunlight or fresh air, no ventilation system and has insufficient space for classroom materials and resources. The letter goes on to suggest that Dr. Schnur placed a first year teacher in that room because she would not be able to complain about the situation without risking her job. In her cover letter, Ms. Zimmerman refers to the "substandard kindergarten classroom" and says that the room is an "obvious Fire Code Violation" because there must be two available exits to any classroom." She signed both letters as Rocky Hill School Board President and, on the parent's letter, copied the school principal, the President of the Montgomery School Board and the Somerset County Superintendent.

In a letter dated October 7, 2002, Dr. Schnur, apparently upset with Ms. Zimmerman's letter, challenged the accuracy of the correspondence and accused her of an ethics code violation. He noted that the room was not a resource/storage room, but a classroom that had been approved by the county superintendent for music instruction in 2001-2002 and for a kindergarten classroom in 2002-2003. In the letter, he also faulted her for representing that she was acting with the knowledge and support of her Board during a conversation that he had with her while she was at the school.

Ms. Zimmerman denies having had such a conversation with Dr. Schnur and believes that this fact is material to the resolution of the case.

ANALYSIS

The Commission found probable cause that Ms. Zimmerman's conduct violated N.J.S.A. 18A:12-24.1(e), which sets forth:

N.J.S.A. 18A:12-24.1(e) of the Code of Ethics sets forth:

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 found sufficient evidence that Ms. Zimmerman took private action using her position as Board President to create the impression that she was representing the interests of her Board when she complained about the classroom in question. Even if the Commission discounts Dr. Schnur's assertion that Ms. Zimmerman represented to him that she was acting on behalf of her Board, there is sufficient evidence to sustain a finding that Ms. Zimmerman took private action that may compromise the Board. Ms. Zimmerman's writing of such a strongly worded letter and copying the county superintendent could have resulted in the revocation of the use of the room by the county superintendent. The letter that she provided him, referencing an "obvious fire code violation" surely could have compromised the Board and greatly damaged its relationship with the Board's receiving district. For the foregoing reasons, the Commission concludes that Ms. Zimmerman violated N.J.S.A. 18A:12-24.1(e).

Complainant next found probable cause that Ms. Zimmerman violated 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 found probable cause that Ms. Zimmerman did not provide accurate information and act in concert with her fellow board members to interpret to the staff the aspirations of the community for its school. Ms. Zimmerman does not dispute that, particularly while serving as board president, she has the duty to provide accurate information. The classroom had received approval from the Department of Education and was not a fire code violation. Yet, Ms. Zimmerman called the room substandard and “an obvious fire code violation.” She further signed the letter as Board President and proceeded to copy the Montgomery Board of Education and the County Superintendent on the parent’s letter, which further suggested that Dr. Schnur placed a first year teacher in that room because she could not complain about the situation without risking her job. The Commission concludes that she did not provide accurate information. Further, she did not discuss these strong allegations with her own Board or give the administration opportunity to address the concerns raised. Therefore, she did not act in concert with her fellow board members to interpret to the staff the aspirations of the community for its school. For the foregoing reasons, the Commission finds that Ms. Zimmerman violated N.J.S.A. 18A:12-24.1(g).

DECISION

For the foregoing reasons, the School Ethics Commission concludes that Ms. Zimmerman violated N.J.S.A. 18A:12-24.1(e) and (g) of the School Ethics Act.

The Commission, in determining the appropriate penalty, considered the fact that Ms. Zimmerman was trying to do the right thing in making inquiries on behalf of a constituent. However, by signing the negative letter of the parents as if it were her own and adding her title of Board President, she went too far and violated the Code of Ethics. 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, 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 all other parties.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C49-02

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

Whereas, at its meeting of June 24, 2003, the Commission found probable cause to credit the allegations that Respondent violated the School Ethics Act, N.J.S.A. 18A:12-24.1(e) and (g); and

Whereas, after considering Respondent's submission in response to the finding of probable cause, the Commission determined that Respondent violated N.J.S.A. 18A:12-24.1(e) and (g) of the Act; and

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

Whereas, the Commission has reviewed the 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 on July 22, 2003 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 decision was adopted by the School Ethics Commission at its public meeting on July 22, 2003.

Lisa James-Beavers
Executive Director