
KELLY GONZALEZ

v.

**JAMES PETROZELLI
DUNELLEN BOARD OF ED.
MIDDLESEX COUNTY**

**BEFORE THE
SCHOOL ETHICS COMMISSION**

Docket No. C08-08

PROBABLE CAUSE NOTICE

This matter arises from a complaint filed on February 28, 2008 by Kelly Gonzalez alleging that James Petrozelli, a member of the Dunellen Board of Education (Board), violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. The respondent filed an answer on March 20, 2008. On April 22, 2008 the School Ethics Commission voted to hold this matter in abeyance until resolution of a matter pending in the Middlesex County Prosecutor's Office. The pending matter was resolved on May 9, 2008. The Commission held a probable cause hearing on this matter on November 25, 2008, at which time the Commission voted to find no probable cause to credit the allegations that the respondent violated the Act.

SUMMARY OF PLEADINGS, DOCUMENTS AND INVESTIGATION

In her complaint, the complainant sets forth that her son was involved in an incident at the district's basketball game with the respondent's son; as a result, the principal disciplined THE complainant's son. The complainant noted that the discipline for this incident was handled by the principal, rather than the respondent's wife, who, as Dean was in charge of discipline. (Complaint at paragraph 1) The complainant alleges that the respondent went directly to the high school principal and demanded that the three-day suspension of her son, imposed by the principal, be extended to a ten-day suspension. The complainant maintains that the respondent's conduct violated N.J.S.A. 18A:12-24(c), N.J.S.A. 18A:12-24.1(j) and N.J.S.A. 18A:12-22¹. (Id., at paragraphs 2-4)

In his answer, the respondent stated that his wife is the Dean of Students at the high school where her primary role is the handling of all student discipline. He further clarified that his son is a sixth grader who attends the middle school and the complainant's son is a senior at the high school. (Answer at paragraph 1) The respondent indicated that, in October 2007, the complainant's son vandalized his house after his wife's office took disciplinary action against complainant's son by suspending him for five days. (Id., at paragraph 2) The respondent explained that, on January 9, 2008, the complainant's son called his son to sit next to him on the bleacher at a high school basketball game. The complainant's son then said something very offensive to the respondent's son and pushed his son off the bleacher throwing him approximately six feet

¹ The Commission did not address the complainant's contention that the respondent violated N.J.S.A. 18A:12-22 because this provision sets forth the legislative findings and declarations and does not contain enforceable standards.

across the floor. (*Id.*, at paragraphs 2 and 3) That evening, the respondent and his wife filed a complaint with the Dunellen Police Department. On January 10, 2008, the respondent's wife called the high school principal and asked "to come in *as parents* to report an incident that involved a high school student and our son." (*Id.*, at paragraph 4) The respondent noted that he and his wife met with the high school principal and the middle school principal to explain what had happened and to share their concern that this was, again, in retaliation for disciplinary action from the Dean of School's Office. The respondent indicated that they discussed that, "this being a second offense of this type of infraction and as per the Dunellen High School student handbook, the consequences should be ten days out of schools suspension." (*Id.*, at paragraphs 4 and 5) The respondent denied that he demanded anything and explained that the principal, who at that time had not imposed any discipline, merely listened to the respondent and his wife. (*Id.*, at paragraph 6) The respondent denied that he violated N.J.S.A. 18A:12-24(c) and N.J.S.A. 18A:12-24.1(j) and N.J.S.A. 18A:12-22. (*Id.*, at paragraph 7) In response to a request from the Commission, the respondent submitted a copy of the Dunellen High School student handbook, which included the disciplinary consequences for specific infractions along with a letter from the attorney for the respondent's wife. Prior to the hearing, respondent's counsel submitted a copy of the district's disciplinary policy and the disposition document from the Middlesex County Prosecutor's Office for the complainant's son.

The complainant did not appear at the Commission's November 25, 2008 meeting. The respondent's attorney, Adam S. Weiss, Esq., presented a review of the events set forth in the respondent's answer. The respondent affirmed that the counsel's statement account was an accurate account of events. Further the respondent maintained that he never took any action as a Board member with regard to the complainant's son and he recused himself from any matter involving student discipline since his wife was the Dean of Students responsible for the discipline of students.

FINDINGS OF PROBABLE CAUSE

This matter was before the Commission for a determination of probable cause. That is, the Commission must determine, based on the documentary and testimonial evidence before it, whether probable cause exists to credit the allegations in the complaint. A finding of probable cause is not an adjudication on the merits, but, rather, an initial review whereupon the Commission makes a preliminary determination whether the matter should proceed to an adjudication on the merits, or whether further review is not warranted. In making this decision, the Commission must consider whether sufficient evidence exists to support a claim of violation under the School Ethics Act. Here, the Commission finds there is insufficient evidence to proceed.

The complainant alleges that the respondent violated N.J.S.A. 18A:12-24(c) and N.J.S.A. 18A:12-24.1(j) when he and his wife met with the principal regarding the disciplinary consequences for the complainant's son resulting from an incident involving the respondent's son. N.J.S.A. 18A:12-24(c) provides:

No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has 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;

It is clear to the Commission that the respondent did not act in his official capacity as a member of the Board when he and his wife met with the principal to report the January 9, 2008 incident involving their son and the complainant's son. Indeed, there is nothing in this record which refutes the respondent's assertion that his wife called the high school principal and asked "to come in *as parents* to report an incident that involved a high school student and our son." (Answer at paragraph 4) Moreover, the respondent credibly testified that he recused himself from any matters involving student discipline because his wife was Dean of Students in charge of discipline. In its initial review of the submissions in this matter, the Commission finds that further review of this matter is not warranted because insufficient evidence exists to support a claim of violation N.J.S.A. 18A:12-24(c).

The complainant alleges that the respondent also violated N.J.S.A. 18A:12-24.1(j), which provides:

I will refer all complaints to the chief school administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

The complainant argues that the respondent did not follow the proper procedure when they met with the principal regarding the January 9, 2008 incident involving the complainant's son. However, as noted above, the respondent was acting as a parent when he and his wife met with the principal to report the incident; he was not acting in his official capacity as a Board member. In its initial review of the submissions in this matter, the Commission finds that further review of this matter is not warranted because insufficient evidence exists to support a claim of violation N.J.S.A. 18A:12-24.1(j).

NOTICE

Pursuant to N.J.S.A. 18A:12-29b, the Commission hereby notifies the parties to this matter that it finds no probable cause to credit the allegations that James Petrozelli violated the Act and the Commission 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. See, New Jersey Court Rule 2:2-3(a).

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C08-08

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 November 25, 2008, the Commission found no probable cause to credit the allegations that James Petrozelli violated the School Ethics Act, N.J.S.A. 18A:12-21 *et seq.* and therefore dismissed the charges against him; and

Whereas, the Commission directed its staff to 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 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 December 16, 2008.

Joanne Boyle, Executive Director
School Ethics Commission