



respondent stated: “I am still having many reservations with the structure of this new academy. [Employee] is of course a current principal in our district with many years of Elementary experience, but I am not sure about Middle or High school...” Under the heading “Human Resources,” the respondent asked, “Since [R.B.] is leaving the district, is it possible for [S.B.] to be brought back?” (Complaint attachment; names included in the attachment)

The question before the Commission was whether the complainant alleged facts which, if true, could support a finding that the respondent violated N.J.S.A. 18A:12-24.1(c), (d), (g), (h) and (i) of the Code of Ethics for School Board Members. Granting all inferences to the complainant, the Commission finds that the complainant has failed to meet this standard. 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 to frame policies and plans only after the board has consulted those who will be affected by them.

The complainant’s claim is based on the mere assertion that the messages in the e-mail, as set forth above, were improper. The complainant asserts no particular facts which, if true, would support the allegation that respondent violated her duty to confine board action to policy, planning and appraisal. Indeed, the headings used in the respondent’s e-mail suggest that the statements/questions directed to the Superintendent were in furtherance of business that was before the Board and could well fall within the respondent’s planning and appraisal functions. Therefore, even accepting as true all facts alleged, the Commission finds that such facts would not constitute a violation of N.J.S.A. 18A:12-24.1(c).

N.J.S.A. 18A:12-24.1(d) 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 complainant asserts no particular facts which, if true, would support the allegation that respondent became “directly involved in activities or functions that are the responsibility of school personnel or the day to day administration of the school district.” N.J.A.C. 6A:28-7.1. The respondent’s statements/questions directed to the Superintendent simply would not rise to the level of administering the schools; her statement about the transfer of an administrator that had apparently been effectuated the month before amounts to nothing more than commentary. Therefore, even accepting as true all facts alleged, the Commission finds that such facts would not constitute a violation of N.J.S.A. 18A:12-24.1(d).

N.J.S.A. 18A:12-24.1(g) 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 complainant asserts no particular facts which, if true, would support the allegation that respondent divulged confidential information when she sent an e-mail that was solely directed to the Superintendent; neither does the complainant allege any facts that might show that the respondent was responsible for the release of inaccurate information. Therefore, even accepting as true all facts alleged, the Commission finds that such facts would not constitute a violation of N.J.S.A. 18A:12-24.1(g).

N.J.S.A. 18A:12-24.1(h) provides:

I will vote to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer.

The complainant asserts no particular facts which, if true, would support the allegation that the respondent failed to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer. The respondent's statements/questions directed to the Superintendent simply do not, alone, rise to the level of a violation. Therefore, even accepting as true all facts alleged, the Commission finds that such facts would not constitute a violation of N.J.S.A. 18A:12-24.1(h).

N.J.S.A. 18A:12-24.1(i) provides:

I will support and protect school personnel in proper performance of their duties.

The complainant asserts no particular facts which, if true, would support the allegation that the respondent failed to support and protect school personnel in the proper performance of their duties. The respondent's statements/questions directed to the Superintendent simply do not, alone, rise to the level of a violation. Therefore, even accepting as true all facts alleged, the Commission finds that such facts would not constitute a violation of N.J.S.A. 18A:12-24.1(i).

## **REQUEST FOR SANCTIONS**

At its November 25, 2008 meeting, the Commission considered the respondent's request that the Commission find that the complaint was frivolous and impose sanctions

pursuant to N.J.S.A. 18A:12-29(e). The Commission can find no evidence which might show that the complainant filed the complaint in bad faith solely for the purpose of harassment, delay or malicious injury. The Commission also has no information to suggest that the complainant should have known that the complaint was without any reasonable basis in law or equity or that it could not be supported by a good faith argument for an extension, modification or reversal of existing law. For the foregoing reasons, the Commission finds that the complaint is not frivolous and denies the respondent's request for sanctions against the complainant.

## **DECISION**

Based on the foregoing, the Commission grants the respondent's Motion to Dismiss the complaint. This is a final decision of an administrative agency, appealable to the Superior Court, Appellate Division. See, New Jersey Court Rule 2:2-3(a).

Paul C. Garbarini  
Chairperson

## **Resolution Adopting Decision – C32-08**

**Whereas**, the School Ethics Commission has considered the pleadings filed by the parties and the Motion to Dismiss filed by the respondent, together with the documents submitted in support thereof; and

**Whereas**, the Commission granted the respondent's Motion to Dismiss the allegations that respondent violated N.J.S.A. 18A:12-24.1(c), (d), (g), (h) and (i) of the Code of Ethics for School Board Members; and

**Whereas**, the Commission has reviewed the proposed decision of its staff; and

**Whereas**, the Commission agrees with the proposed decision;

**Now Therefore Be It Resolved** that the Commission hereby adopts the proposed decision granting the respondents' Motion to Dismiss as the final decision of an administrative agency and directs its staff to notify all parties to this action of its decision herein.

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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 December 16, 2008.

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Joanne Boyle  
Executive Director