

provided both confidential information and a characterization of an incident that occurred on July 6, 2007 in violation of N.J.S.A. 18A:12-24.1(c) and (g) of the Code of Ethics for School Board Members. The complainants did not appear at the Commission's meeting.

The respondent, Joseph Bellino, attended the meeting with counsel, James M. McCreedy, Esq. Mr. Bellino testified that he is starting his sixth year as a Board member in Verona. He has had training from the New Jersey School Board's Association and understands when information must be held confidential.

Mr. Bellino acknowledged that he initially spoke to the Star Ledger reporter, Philip Read, following a hearing conducted by the New Jersey Interscholastic Athletic Association (NJSIAA) with respect to one of the Verona students who was involved in an incident on July 6, 2007 and who subsequently transferred to DePaul Catholic High School. The reporter wrote an article about the NJSIAA hearing; the respondent contacted the reporter in order to correct statements referenced in the article that were reportedly made at the NJSIAA hearing.

The respondent asserts that he did not supply confidential information about any of the students involved in the July 6, 2007 incident to the reporter. Rather, the respondent stated that he was particularly upset that the article concerning the NJSIAA hearing referenced a comment made by complainant Mota who used the term "lynch mob" when referring to a prior Board meeting that had been conducted to hear concerns from the public about the July 6, 2007 incident. The respondent averred that although there was a large group of people at that meeting, he estimated there were about 50 or 60, and not 200, as reported. The respondent further testified that the public conducted themselves appropriately; about three or four people spoke and asked the board to take appropriate action.

The respondent referred to his Exhibit R-11, a copy of his email to reporter Philip Read dated September 17, 2007. The respondent read from the first paragraph of his email, which stated:

I am a member of the Verona Board of Education. The opinions and comments offered here are my own and are not to be represented or construed as the opinions or comments of the Verona Board of Education. This is not an official statement, strictly an expression of my own opinion. (Exhibit R-11)

Mr. Bellino acknowledged that in addition to the email, he had a conversation with the reporter wherein he restated what was in his email. The respondent maintains that he did not reveal anything confidential about the students; he did not discuss with the reporter where the students transferred, although this information appeared in the article.

As to the allegation that he inappropriately commented on the punishment given to the student athlete who remained in Verona, the respondent stated that the Board

attempted to have a hearing for all four students involved in the July 6, 2007 incident, but three of them transferred out of the District before the hearing. The student who remained was suspended from participating in extra-curricular activities and prohibited from being a captain of any sports team. This decision was upheld by the Commissioner of Education on appeal.

Prior to the meeting, counsel for Mr. Bellino submitted documents marked as R1 through R17 consisting of a series of articles published from July 2007 through September 2007, along with a copy of the Commissioner's decision issued in the matter entitled, S.L. on behalf of minor child, D.L. v. Board of Education of the Township of Verona, Essex County, March 10, 2008 and the decision issued by the NJSIAA's eligibility appeals committee in the matter entitled In the Matter of The Eligibility of N.S., A Student at DePaul Catholic High School.²

FINDINGS OF FACT

The Commission found the following facts based on the pleadings, testimony and documents on the record:

1. Joseph Bellino is a member of the Verona Board of Education.
2. Articles published in the newspaper revealed that three students involved in the July 6, 2007 incident had transferred from Verona High School to other named schools. These articles were published on September 7, 2007 (Exhibit R-5), September 8, 2007 (Exhibit R-6), September 11, 2007 (Exhibit R-7) and on September 13, 2007 (Exhibit R-9).
3. Mr. Bellino contacted a Star Ledger reporter on September 17, 2007 by email and provided information that was used in an article dated September 18, 2007. The respondent also spoke with the Star Ledger reporter after sending the email.
4. Mr. Bellino offered his opinion to the reporter and did not release confidential information.
5. On September 18, 2007, an article appeared in the Star Ledger. The article stated that the respondent characterized the NJSIAA's penalty against the DePaul student as "extremely" light. The article further stated, in relevant part, "Bellino, who said he was expressing his opinion and not speaking for the board or as a member of the board's athletic committee, described the 'lynch mob' characterization as "grossly inaccurate."

² Although the complainants' submission dated October 17, 2008 objected to the submission of the respondent's documents marked as R1-R17 as irrelevant, inasmuch as the complainants did not appear to challenge these submissions, the Commission accepted these documents onto the record and accorded them whatever weight it deemed appropriate.

6. On September 19, 2007, an article appeared in the Star Ledger about the NJSIAA's decision with respect to the other two athletes who transferred out of the District and referenced the NJSIAA's prior decision regarding the DePaul student. The article states, in relevant part, "On Monday, school board member Joseph Bellino, the first to speak publicly about the issue, described the NJSIAA's penalty as 'extremely' light and asserted that it was based on a 'skewed' and 'incorrect' depiction of that meeting by the DePaul player's mother."

ANALYSIS

The Commission initially notes that, pursuant to N.J.S.A. 18A:12-29b, the complainants bear the burden of factually proving any violations of the Code of Ethics for School Board Members. The complainants assert that the respondent's conduct in contacting the reporter and providing information for the September 18th and September 19th, 2007 articles violated N.J.S.A. 18A:12-24.1(c) and (g) of the Code of Ethics for School Board Members. N.J.S.A. 18A:12-24.1(c) states:

(c) 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.

Here, the record shows that the respondent took action as an individual when he contacted the reporter. Indeed, the respondent's email states, in relevant part: "I am a member of the Verona Board of Education. The opinions and comments offered here are my own and are not to be represented or construed as the opinions or comments of the Verona Board of Education. This is not an official statement, strictly an expression of my own opinion." (R-11) The September 18th article that appeared in the Star Ledger also stated that Bellino was expressing his opinion and not speaking for the board or as a member of the board's athletic committee. As such, this was not "board action." Accordingly, the Commission finds that the complainants have failed to establish that the respondent violated N.J.S.A. 18A:12-24.1(c).

The complainants further contend that the respondent violated N.J.S.A. 18A:12-24.1(g), which provides:

(g) 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 complainants assert that the respondent "provided confidential information and [a] characterization of [the] July 6th incident." (Complaint at paragraph F) Although

the complainants never explicitly indicate *what* confidential information the respondent provided, the Commission relies on the complaint which alleges that “[b]y supplying information as to where three of the students transferred, Respondent effectively identified these juveniles and made them a target at their current schools.” (Complaint at page 4) The Commission finds that the complainants failed to establish that the respondent, in his communications with the reporter, indicated where the three students transferred. Even assuming, *arguendo* that he had done so, as the chronology set forth in the findings above so indicates, information about the students’ transfer to other schools was made public well before September 17, 2007 so that such information could no longer be deemed confidential.

As to the respondent’s characterization of Ms. Mota’s testimony before the NJSIAA as “skewed and inaccurate,” or his comments about the respective penalties dispensed to the students, as noted above, these were the respondent’s opinions, and were never held out to be official statements made on behalf of the Board. It is important to note that in order for the complainants to prove that information was inaccurate under N.J.S.A. 6A:12-24.1(g), they must show that the statements were more than an opinion held by the respondent, which they have failed to do. N.J.A.C. 6A:28-6.9(b)3. Accordingly, the Commission finds that the complainants have failed to establish that the respondent violated N.J.S.A. 18A:12-24.1(g).

DECISION

Based on the testimonial and documentary evidence, the Commission finds that the complainants failed to prove factually that the respondent violated N.J.S.A. 18A:12-24.1(c) and (g) of the Code of Ethics for School Board Members. Consequently, the complaint is dismissed. 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 – C38-07

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

Whereas, at its meeting of October 27, 2008, the Commission found that the complainants had not established that Joseph Bellino 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 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 within decision and directs its staff to notify all parties to this action of the decision.³

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, 2008.⁴

Joanne Boyle, Executive Director

³ Commissioner Jane Hutchison was recused from participating and voting on this matter.

⁴ There was not a quorum to adopt the decision at the Commission's meeting on November 25, 2008.