



members did not needlessly injure individuals or the schools. Mr. Zilinsky indicated that should the Commission find him in violation of the Act, he should only be reprimanded since he inadvertently sent the e-mail and then four minutes later sent the correct file.

## **FACTS**

The Commission based its finding of probable cause on the following facts.

At the time of the allegations in this complaint, Mr. Zilinski and the complainant were members of the Board. The complainant was the Board President at the time Mr. Zilinski sent the e-mail and she recently retired from the Board after being on it for 12 years. Mr. Zilinski is now Board President. Board policy 8330 establishes the process for obtaining and disseminating pupil record information.

In early November, Mr. Zilinski received two anonymous letters regarding student suspensions for dress code violations. He arranged the information from the letter in an Excel spreadsheet so he could better understand it. The Excel spread sheet included the names of the students who were suspended from October to November 2004, the number of days they were suspended, the type of suspension and a reason if the suspension was for a violation of the dress code. Mr. Zilinski named the file "suspensions." After Mr. Zilinski organized the information and reviewed it, he came to the conclusion that it was useless. He made a decision not to turn the information over to the Board President because of a previous negative experience that the Board President had with the administration regarding an anonymous letter. Mr. Zilinski mentioned the letters to a couple of other Board members and they agreed that he should just let the issue die.

On April 3, 2005, Mr. Zilinski found an article in the Star Ledger reporting on how some districts use community service in lieu of out-of-school suspension. He wanted to share this information with the Board so he scanned the article into his computer and named the file "suspensions." On April 4, 2005 at 2:41 p.m., Mr. Zilinski sent an e-mail to the Board and copied himself. The e-mail included an attachment named "suspensions." When Mr. Zilinski reviewed the attachment in the e-mail that had already been sent, he realized that he had mistakenly sent the Excel spread sheet, which contained information regarding the students that had been suspended from October to November 2004. At 2:45 p.m. on April 4, 2005, Mr. Zilinski sent the Board another e-mail with an attachment named "suspensions" that was the Star Ledger article. In the e-mail he said, "Sorry, sent wrong file on previous..... this is the Star Ledger article."

## **ANALYSIS**

The Commission found probable cause that Mr. Zilinski violated N.J.S.A. 18A:12-24.1(e) when he sent the e-mail to all Board members on April 4, 2005 with an attachment that contained the names of students suspended from October to November 2004. N.J.S.A. 18A:12-24.1(e) provides:

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.

Mr. Zilinski received the information regarding the students through two anonymous letters and organized it in an Excel spread sheet to make sense of it and then accidentally sent it as an e-mail attachment to the Board. Four minutes after that, he e-mailed the Board with the correct attachment notifying them that the first attachment was the wrong file. Mr. Zilinski did not go to either the Board President or the Superintendent after he had received the two anonymous letters. In his response to the Commission's probable cause decision, he argued that his action did not compromise the Board because only Board members received the e-mail with the confidential information. He also contended that the Board members would otherwise be entitled to the information. However, Board policy 8330 restricts access to pupil records to the pupil's parent or legal guardian, and the Board is permitted access only through the Superintendent. Therefore, the Board would not have been entitled to the confidential information in the e-mail. The Commission also notes that Mr. Zilinski could have inadvertently sent the file containing the confidential information to anyone. His children or spouse could have also accessed the file with the confidential information. The Commission finds that the Board may have been compromised when Mr. Zilinski's inadvertently sent the April 4, 2005 e-mail. Therefore, the Commission finds Mr. Zilinski violated N.J.S.A. 18A:12-24.1(e) when he took private action in organizing confidential information containing the names of students in an Excel spreadsheet, which he accidentally sent to the entire Board as an attachment to his e-mail on April 4, 2005.

The Commission also found probable cause that Mr. Zilinski violated N.J.S.A. 18A:12-24.1(g) when he sent the e-mail to all Board members on April 4, 2005 with an attachment that contained the names of students suspended from October to November 2004. 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 April 4, 2005 e-mail contained confidential information regarding students including their names and the reason they were suspended if that suspension was due to a violation of the dress code. In his response to the probable cause decision, Mr. Zilinski argued that his e-mail did not result in injury and could not result in injury. However, the Commission again notes that Mr. Zilinsky's children and spouse could have accessed the file with the confidential information and those he sent it to could have inadvertently sent it to anyone. The Commission further notes that Mr. Zilinsky could have used initials rather than full names when he organized the information into an excel spreadsheet. Therefore, the Commission finds that Mr. Zilinsky violated N.J.S.A. 18A:12-24.1(g)

when he failed to hold confidential the names of students who had been suspended during October and November 2004.

## **DECISION**

For the reasons discussed above, the Commission finds that Edmund J. Zilinski violated N.J.S.A. 18A:12-24.1(e) and (g) of the Code of Ethics for School Board Members in the Act. The Commission recommends that the Commissioner of Education impose a penalty of reprimand since Mr. Zilinski immediately advised the Board members that he had sent the wrong attachment.

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 13 days from the date on which the Commission's decision was mailed to the parties, Mr. Zilinski 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.

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Paul C. Garbarini  
Chairperson

## **Resolution Adopting Decision – C20-05**

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

**Whereas**, at its meeting of September 27, 2005, the Commission found that Edmund J. Zilinski violated N.J.S.A. 18A:12-24.1(e) and (g) of the Code of Ethics for School Board Members in the Act and recommended that the Commissioner of Education impose a sanction of reprimand; and

**Whereas**, at its meeting of October 25, 2005, the Commission reviewed a draft decision prepared by its staff 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.

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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 October 25, 2005.

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Lisa James-Beavers  
Executive Director