

contends that because the administrators did not bring any paperwork to the meeting, the purpose of the meeting was to permit the respondent the opportunity to reprimand her. The complainant asserts that respondent's conduct at the meeting violated N.J.S.A. 18A:12-24.1(c), (d), (i) and (j) of the Code of Ethics for School Board Members.

In his answer, the respondent asserts that although he was initially informed that his son was issued an infraction for throwing paper balls, Ms. Moore later called him to inform him that "she would be rescinding [his son's] detentions because after an investigation she found out that Mrs. Nock did not see [his son] throw any paper into the classroom." (Answer) The respondent then requested a parent/teacher conference, which was arranged by Ms. Moore.

The respondent affirms that he attended the meeting, along with the building principal, Ms. Moore and the union representative. He affirms that he requested the meeting as a concerned parent who suspected that a teacher had completed a false infraction form regarding his son and tried to persuade another teacher to do the same. The building principal, according to the respondent, maintained order during the meeting, although the complainant resented the respondent's questions about why she would write an infraction for an act she did not see. When the complainant became visibly upset, the respondent asserts that the principal ended the meeting. The respondent affirms, "I never made mention of me being a School Board Member. I never asked for any SPECIAL considerations because of the position that I hold. I take my responsibilities as a Board Member very seriously and would never do anything to compromise the INTEGRITY of this position. My responsibilities as a parent come before anything." The respondent contends there was never any mention of the position he holds. (Id., emphasis in text)

EVIDENCE

Ms. Nock testified that on May 17, 2007, she was seated at her desk in her classroom with a class being conducted by another teacher. Her desk was near the door. She saw little pieces of paper coming into the room. She testified that she got up from her seat and saw the respondent's son put his head in the door; pieces of paper came out of his mouth. She walked to the door and the student ran into the hall and into another classroom. The complainant followed him, then told the other classroom teacher that the respondent's son was at the complainant's classroom throwing spitballs. Respondent's son, according to the complainant, told her to "get out of his face." She then completed a Student Infraction Form, a copy of which was included in the complaint.

The next day, Friday, May 18, 2007, Ms. Moore questioned the complainant about the incident. The complainant testified that she took a personal day on Monday, May 21. On Tuesday, she affirms, there was no mention of a parent/teacher conference. On Wednesday, May 23, she took a sick day. On Thursday, May 24, when the complainant returned to school she was informed there would be a meeting. The complainant questioned what it was about; when she heard that the respondent was attending, she asked whether it was about the infraction. Ms. Moore informed her that the meeting was taking place that day. The complainant testified that when she found out

that Mr. White, the principal was going to be at the meeting, she thought she needed a union representative with her since parent/teacher conferences are not ordinarily attended by administrators, just the parent and teacher. When she walked into meeting, the respondent objected to the attendance of the union representative.

Ms. Nock testified that Mr. White opened the meeting stating that the purpose was to get clarification on the infraction. She questioned why this was necessary since she believed the form to be self-explanatory. At that point, Ms. Nock testified that the respondent “took over,” stating that she falsified the information on the infraction form. The complainant maintains that she never falsified the infraction form and never convinced another teacher to issue an infraction regarding the respondent’s son. According to the complainant, the meeting ended with the respondent accusing her of falsifying the infraction form.

Ms. Nock testified that she requested an investigation and the interim superintendent directed the principal to do the investigation. The principal issued a report dated October 3, 2007. A copy of the report was sent to the complainant. The report states that Ms. Moore never indicated that Ms. Nock falsified the infraction or influenced another teacher to file an infraction form. Ms. Nock includes with her complaint a memorandum to the Interim Superintendent of Schools from Mr. White dated June 14, 2007, an Investigation Report dated October 3, 2007 from Mr. White to the Interim Superintendent and a letter dated October 9, 2007 from the Interim Superintendent to the complainant referencing the report.

Ms. Nock asserts that the respondent should be reprimanded for accusing her of falsifying the infraction form. She also requested that the Commission require that the respondent recuse himself from any matters relating to her employment, in that she fears retaliation.

Ms. Nock acknowledged in her testimony that the respondent would have been called about the discipline even if he was not a board member. She stated that it is the parent who usually requests the parent/teacher conference. Ordinarily, an administrator would not attend the conference. If, however, the parent is not satisfied with the outcome, then the parent would go to assistant principal, then the principal. The complainant testified that when she walked into the meeting, she thought she would be reprimanded because she had never been called to a meeting with two administrators and a parent regarding an infraction.

The complainant also acknowledged that the respondent did not identify himself as a board member at the meeting. Neither did any administrator indicate that s/he was there because of problems with a board member’s son. Ms. Nock stated that she believed the respondent used his position as a board member because he was calling it a parent/teacher conference and it was not. According to the complainant, if two administrators are attending the meeting, then it is something other than a parent/teacher conference. She further acknowledged that she had no evidence that the respondent was responsible for the attendance of the administrators.

Mr. Walker testified that he is a parent who holds his child accountable when he is wrong and he has never chastised a teacher or any other adult for holding his child accountable. He testified that he learned of the infraction and detention to be issued when Ms. Moore called him the morning of Friday, May 18, 2007. He never questioned the discipline and was ready to reprimand his son at home until he was called later that day by Ms. Moore and told that, upon further investigation, the infraction was not accurate. At that point, he asked for the parent/teacher conference. According to the respondent, Ms. Moore told him that protocol required that the teacher be given 24 hours notice. The respondent testified that Ms. Moore called him again on Monday and arranged a meeting for the next day.¹

According to the respondent, on the date of the meeting, he just wanted to know what happened. In this connection, he maintains that it is unclear whether the complainant actually saw his son throw a paper ball into the room. The respondent testified that he did not attend the meeting as a board member, but rather as a parent. He asserted that he is more aware now that he is a board member of how others view his presence in the school, but he was seeking clarification as a parent.

By no means, according to Mr. Walker, did he enter the school as a board member. As such, Mr. Walker testified that he did not see the need for a union representative to attend the meeting with the complainant. He affirms there were no accusations. According to the respondent, the complainant took the lead because she demanded the attendance of her union representative. She set the tone by doing so.

FINDINGS OF FACT

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

1. The complainant is a teacher in the Willingboro School District. The respondent is a Board member.
2. On May 17, 2007, the complainant completed a Student Infraction Form indicating that the respondent's son was throwing paper balls into the classroom.
3. The respondent was contacted on May 18, 2007 and informed about the infraction and anticipated discipline. It was not unusual for a parent to be so notified.
4. The respondent requested an opportunity to meet in order to seek clarification about the incident.

¹ Respondent's Answer indicates that Ms. Moore initially arranged for a parent/teacher conference to be held on Monday, May 21, 2007. The respondent affirmed, "On Monday I was at the school at 8am and Ms. Moore informed me that Mrs. Nock was out that day and I should come back at the same time on Tuesday. The meeting was held the next day." (Answer)

5. Although there are differing accounts of the date the meeting took place, there is no dispute that a meeting was conducted the week of May 21, 2007, consistent with the District's procedures that accord a teacher proper notice.²
6. In attendance were the complainant, the respondent, the building principal, the assistant principal and the union representative.
7. The complainant requested the attendance of her union representative upon learning that the building principal and the assistant principal were going to attend the meeting since parent/teacher conferences are not ordinarily attended by administrators.
8. The respondent questioned the need for a union representative at a parent/teacher conference.
9. Mr. White, the building principal, opened the meeting stating that the purpose was to get clarification on the infraction.
10. The respondent did not identify himself as a board member at that meeting; he attended as a parent. The administrators did not say anything to suggest that the meeting was being conducted because the student was the son of a board member.
11. Although there remains a dispute between the parties as to whether Ms. Nock actually saw the respondent's son throw the paper balls, this dispute is only relevant insofar as it suggests that the meeting did not yield the "clarification" that the respondent sought. The discussion during the meeting was contentious.

ANALYSIS

The complainant asserts that the respondent's conduct at the meeting violated N.J.S.A. 18A:12-24.1(c), (d), (i) and (j), the Code of Ethics for School Board Members. Pursuant to N.J.A.C. 6A:28-6.9, it was her burden to prove these alleged violations. Thus, she must demonstrate that the respondent violated his duty to:

- confine his board action to policy making, planning, and appraisal, and help to frame policies and plans only after the board has consulted those who will be affected by them (N.J.S.A. 18A:12-24.1(c));
- carry out his responsibility not to administer the schools but, together with fellow board members, see that they are well run (N.J.S.A. 18A:12-24.1(d));

² The respondent's submissions and testimony seem to indicate that the meeting took place on Tuesday, May 22; the complainant asserts the meeting was held upon her return on May 24 and the meeting report prepared by the Principal indicates the meeting was held on May 23, 2007.

- support and protect school personnel in the proper performance of their duties (N.J.S.A. 18A:12-24.1(i)); and
- refer all complaints to the chief administrative officer and act on the complaints at public meetings only after failure of an administrative solution (N.J.S.A. 18A:12-24.1(j)).

In its consideration of this matter, the Commission is mindful that the School Ethics Act specifically provides that “[n]othing shall prohibit any school official, or members of his immediate family, from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own interests.” N.J.S.A. 18A:12-24(j). Accordingly, it is the complainant’s burden to prove that the respondent’s conduct went beyond the representation of himself or his family.

In order to establish a violation of N.J.S.A. 18A:12-24.1(c), the complainant must show that the respondent took some “board action” and in doing so, failed to confine such action to policy making, planning, and appraisal. Here, however, there is undisputed testimony that the respondent attended the meeting as a parent who was attempting to get clarification about a disciplinary incident involving his son. Indeed, the complainant’s testimony acknowledged that the building principal opened the meeting stating that the purpose of the meeting was for the respondent to obtain clarification about the infraction issued to his son. Additionally, the complainant’s testimony acknowledged that the respondent did not refer to himself as a board member during the meeting and the administrators did not do so either. Because there is no evidence on this record that the respondent acted as a board member, it is not necessary to reach to the “policy making, planning, and appraisal” aspect of this provision. Therefore, the Commission finds that the complainant has failed to establish that the respondent violated N.J.S.A. 18A:12-24.1(c).

In order to establish a violation of N.J.S.A. 18A:12-24.1(d), the complainant must show that the respondent “administered” the schools, contrary to his duty as a board member. However, there is no evidence that the respondent acted in the place of an administrator. Rather, the undisputed testimony established that the respondent requested a parent/teacher conference, which was not inconsistent with District procedures and not violative of District protocol. He did not arrange for the meeting himself. Moreover, there is no evidence on this record that the respondent orchestrated the attendance of the building principal and assistant principal. To the extent the meeting escalated to become something “other than a parent/teacher conference,” the complainant presented no evidence that this was attributable to actions on the respondent’s part. Therefore, the Commission finds that the complainant has failed to establish that the respondent violated N.J.S.A. 18A:12-24.1(d).

In order to establish a violation of N.J.S.A. 18A:12-24.1(i), the complainant must show that the respondent failed to support and protect school personnel in the proper performance of their duties. In this connection, the complainant asserted that the respondent’s conduct at the meeting was intimidating and condescending. However, the

Commission finds that while the record indicates that the respondent challenged the complainant on the issue of whether she actually witnessed the respondent's son throw a paper ball, the complainant failed to prove that, in doing so, the respondent's behavior rose to the level of violating N.J.S.A. 18A:12-24.1(i). Therefore, the Commission finds that the complainant has failed to establish that the respondent violated N.J.S.A. 18A:12-24.1(i).

In order to establish a violation of N.J.S.A. 18A:12-24.1(j), the complainant must show that the respondent failed to refer all complaints to the chief administrative officer and act on the complaints at public meetings only after failure of an administrative solution. There is no evidence on this record that this was a matter that should have been referred to the chief administrative officer, so as to render the respondent's pursuit of a parent/teacher conference to be violative of N.J.S.A. 18A:12-24.1(j). Moreover, as stated above, the respondent acquiesced to District procedures when requesting a parent/teacher conference and did not attempt to override them. Therefore, the Commission finds that the complainant has failed to establish that the respondent violated N.J.S.A. 18A:12-24.1(j).

With respect to the complainant's request that the Commission direct the respondent to recuse himself from all matters regarding her employment, the Commission notes that it is not within its authority to so circumscribe a board member's conduct. Rather, the Commission may recommend a penalty where it finds a violation, N.J.A.C. 6A:28-6.10, or it may render advice to a school official regarding his proposed conduct, in accordance with procedures set forth at N.J.A.C. 6A:28-5.1. Neither situation, however, is applicable herein.

DECISION

Based on the testimonial and documentary evidence, the Commission finds that the complainant has failed to prove factually that the respondent violated N.J.S.A. 18A:12-24.1(c), (d), (i) and (j) 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 – C26-07

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 December 18, 2007, the Commission found that the complainant had not established that Christopher Walker 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 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 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 January 22, 2008

Joanne Boyle, Executive Director