

LAUREN SPICER,	:	BEFORE THE SCHOOL
	:	ETHICS COMMISSION
V.	:	
	:	Docket No.: C31-04
JOHN DELLA VECCHIA and the BOARD	:	
OF TRUSTEES OF THE	:	
PLEASANTVILLE CHARTER SCHOOL	:	
FOR ACADEMIC EXCELLENCE,	:	DECISION
<i>ATLANTIC COUNTY</i>	:	
	:	

PROCEDURAL HISTORY

This matter arises from a complaint filed by the former Principal of the Pleasantville Charter School for Academic Excellence (Charter School) alleging that members of the Board of Trustees of the Charter School (Board) and the Business Manager/Board Treasurer violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. when they compromised her relationship with students, teachers, parents and other staff; allowed the business manager to serve as board treasurer; hired an outside consultant to perform teacher evaluations; administered the schools; prevented complainant from having input in developing the budget and generally undermined her administration. She alleges that these actions culminated in the trustees' failure to renew her contract for 2004-2005 even though she had good evaluations. In addition, she alleged specifically that Stevenson Jackson, President of the Board of Trustees, failed to hold confidential information pertaining to the schools and screamed at her in front of her administrative team. Complainant alleges that the respondents violated the Code of Ethics for School Board Members, N.J.S.A. 18A:12-24.1(a), (c), (d), (g), (i) and (j).

Respondents filed answers generally denying that they had committed any violation of the Code of Ethics for School Board Members and specifically stating that they attempted to assist the complainant by hiring an outside consultant when it appeared that she was not going to get her evaluations done in a timely manner. Further, they answered that the Board attempted to assist her by having her use a mentor and implementing a corrective action plan. They say that complainant refused to work under these conditions.

The parties were advised that the Commission would discuss this matter at its September 30, 2004 meeting; however, that appearance was adjourned at the request of respondents' attorney, Peter Spaeth, Esq. The matter was rescheduled for the October 26, 2004 meeting. The parties were advised that they had the right, but were not required to appear. Complainant appeared pro se along with her witness, Lance Lewis. Respondents Stevenson Jackson, John Della Vecchia, Marchita McKinsey, Pamela Graves and Willie Emmanuel appeared with Mr. Spaeth. At its public meeting, the Commission tabled the matter to allow time for written summations. Timely written

summations were forwarded by both parties. The Commission could not hold a meeting in November because it did not have a quorum. At its December 21, 2004 meeting, the Commission found no probable cause to credit the allegations in the complaint and dismissed it. The Commission's January meeting was canceled due to a snow storm. The Commission adopted this decision with amendments at its meeting of February 22, 2005.

FACTS

The Commission was able to discern the following facts based on the pleadings and documents submitted.

The Board interviewed for a principal position in August 2003. It hired complainant Lauren Spicer as Principal of the Charter School on September 2, 2003. At all times relevant to this complaint, respondent John Della Vecchia was business manager and Board treasurer for the Pleasantville Charter School. The other respondents were members of the Board. Ms. Graves became a member during the 2003-2004 school year.

Ms. Spicer testified that she was prevented from participating in the school budget. She believes that as principal and chief school administrator, she should have had a role in preparing the budget. Although Ms. Spicer testified that she was advised not to oversee and participate in the implementation of the 2003-2004 budget, the respondents denied that she was prevented from participating. Mr. Jackson did admit to telling Ms. Spicer that she should spend more time with the teachers and less on the school's finances. Mr. Jackson testified that Ms. Spicer was invited to provide input on the budget although Mr. Della Vecchia prepared it; but, she did not supply any information and chose not to participate. On her evaluations, under the items in the evaluation referencing the budget, her evaluation is marked "not applicable," rather than unsatisfactory. Thus, it appears from the testimony and documentation that Mr. Della Vecchia prepared the budget and, if Ms. Spicer was invited to comment, it was after the preparation had already been completed. On the other aspects of her evaluations during her year as principal, she was given satisfactory ratings. She made rounds through the school, met with students, staff and parents and practiced effective school management.

Ms. Spicer testified that prior to April 2004, she received compliments on how she had turned the school around from a school where almost all of the 8th grade students were failing. However, she felt that the Board allowed Mr. Della Vecchia to usurp her authority and undermine what she was trying to accomplish. Even though she was chief school administrator, when she wanted something like supplies, she would have to go to Mr. Della Vecchia. He kept all documentation in his office and she did not have access to it. Regarding teacher evaluations, Mr. Jackson, in testimony before the Commission, stated that Mr. Della Vecchia only got involved in the process of evaluating teachers because when Ms. Spicer was given the responsibility, the Board stopped receiving evaluations.

Although Ms. Spicer alleged that Mr. Jackson screamed at her, the only testimony in support of that allegation was her testimony that Mr. Jackson came into her office and ordered her not to focus on the budget, only on instruction. Further, when she wanted to split her office to use half for curriculum and assessment and half for financial and personnel issues, Mr. Jackson told her to cease. No other witnesses were presented to support the allegation.

On May 7, 2004, Mr. Della Vecchia sent Ms. Spicer a letter informing her that the Board of Trustees would discuss the status of her employment for the next year and may take action regarding it at the Board meeting of May 11, 2004. On May 11, 2004, the Board discussed Ms. Spicer's contract. The Board members told her that her new contract would have to include corrective action and a mentor. Although she testified that she agreed, the board members testified uniformly that Ms. Spicer viewed their suggestion as a negative evaluation and was not receptive to the idea. The Board failed to pass a motion to renew her contract for the 2004-2005 school year by a vote of two opposed and two abstentions.

ANALYSIS

As a preliminary matter, the Commission notes that Mr. Della Vecchia is not a member of the Board and therefore, he is not subject to the Code of Ethics for School Board Members. Ms. Spicer has not set forth any other provision of the School Ethics Act that applies to an administrator. Therefore, the Commission must dismiss the complaint against Mr. Della Vecchia because she has only alleged violations of the Code of Ethics, which does not apply to him.

Regarding the respondents who are members of the Board of Trustees, complainant alleges that they violated N.J.S.A. 18A:12-24.1(a), (c), (d), (g), (i) and (j) of the Code of Ethics for School Board Members.

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

I will uphold and enforce all laws, rules and regulations of the State Board of Education and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures.

Complainant alleges that Mr. Jackson and Mr. Della Vecchia completely excluded the faculty, the community and her from participating in the development of the budget. She says that she was later informed by the Department of Education through a corrective action plan that Mr. Della Vecchia's qualifications were lacking and that he was not following all the proper procedures. She alleges that his methods were not in compliance with laws and regulations.

As set forth above, Mr. Della Vecchia is not subject to the Code of Ethics. Therefore, the only remaining allegation for the Commission to consider is that

Mr. Jackson failed to uphold and enforce laws, rules and regulations of the State Board or court orders. Complainant has not set forth any law, State Board rule or regulation or court order that Mr. Jackson failed to uphold or enforce. Therefore, there is insufficient information upon which to base a finding of a violation of N.J.S.A. 18A:12-24.1(a) and the Commission finds no probable cause to credit this allegation.

Complainant next alleges that respondents violated N.J.S.A. 18A:12-24.1(c), which 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.

Complainant alleges that the Board failed to establish policies in several critical areas, and this has impacted achievement, stability, program development and overall progress of the charter school. However, the failure to establish policies does not constitute a violation of N.J.S.A. 18A:12-24.1(c). Rather, it is the failure of a board member to confine his action to such conduct that is appropriate to a board member and the failure to consult those who will be affected prior to framing policies that constitutes a violation of N.J.S.A. 18A:12-24.1(c). Moreover, complainant has not set forth the policies that she believes are mandatory that the Board has failed to establish. For these reasons, the Commission finds no probable cause to credit the allegations that respondents violated N.J.S.A. 18A:12-24.1(c).

Next, complainant alleges that N.J.S.A. 18A:12-24.1(d), which 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.

In support of this allegation, Ms. Spicer alleges that Mr. Jackson engages in school administration. She argues that this poses a liability because he does not understand the role of a principal/chief school administrator in a charter school. Additionally, she alleges that Mr. Della Vecchia's conflicting roles as business manager and Board treasurer have caused interference with the administration of the school and he has interfered in the process of evaluating teachers. She alleges that Mr. Della Vecchia and Mr. Jackson have a close relationship akin to a partnership. Further, she alleges that this partnership has resulted in poor internal controls and a lack of accountability. She alleges that a conspiracy exists to influence votes, especially regarding spending.

Other than the teacher evaluations, Ms. Spicer has not set forth specific instances where Mr. Jackson engaged in school administration. Mr. Jackson, in testimony before the Commission, stated that Mr. Della Vecchia only got involved in the process of evaluating teachers when it became clear that Ms. Spicer was not going to be able to complete them in time. Ms. Spicer denies that she was behind with respect to completing the evaluations. The Commission does not need to resolve this debate because there is no allegation that Mr. Jackson got personally involved with the teacher evaluations. From

the testimony, it appears that Mr. Della Vecchia was responsible for the takeover of the teacher evaluations, whether justified or not. As set forth, Mr. Della Vecchia is not subject to the Code of Ethics for School Board Members; therefore, the Commission must determine whether Mr. Jackson, alone or through his partnership with Mr. Della Vecchia, has violated N.J.S.A. 18A:12-24.1(d). Ms. Spicer alleges that Mr. Jackson allowed Mr. Della Vecchia to perform duties that she believed were her responsibility. The Commission does not feel that this is sufficient evidence that Mr. Jackson administered the schools. Therefore, Ms. Spicer has not met her burden of proving that Mr. Jackson administered the schools in violation of N.J.S.A. 18A:12-24.1(d) and the Commission finds no probable cause to credit this allegation.

Complainant next alleges that respondents violated N.J.S.A. 18A:12-24.1(g), which sets forth:

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.

Complainant alleges that Mr. Jackson has disclosed information that needlessly injured trust and relationships at the school. Specifically, she alleges that Mr. Jackson told her that a retired former vice principal did not want her to be hired. He further stated that he wanted her and protected her behind the scenes, which she did not believe. She alleges that Mr. Jackson later directed the retired vice principal to evaluate Ms. Spicer in his capacity as a consultant to the district. The Commission does not find N.J.S.A. 18A:12-24.1(g) to be applicable to the facts alleged. The one instance that Ms. Spicer cited of revealing confidential information neither injured her nor the schools. Therefore, the Commission finds no probable cause to credit the allegation that respondent violated N.J.S.A. 18A:12-24.1(g).

Complainant next sets forth that Mr. Jackson violated N.J.S.A. 18A:12-24.1(i), which provides, “I will support and protect school personnel in proper performance of their duties.” The examples that she sets forth are that 1) he ordered her to stop the work she was doing to organize a separate room for curriculum, instruction and assessment without giving a reason; 2) he screamed at her at the end of a Board meeting on April 1, 2004 in front of her administrative team; which undermined her authority; and 3) he openly expresses resentment toward her role as chief school administrator and it “closely resembles harassment and intimidation methods.”

The first and third examples do not rise to the level of an ethics violation. The Commission does not believe that the purpose of section (i) of the Code of Ethics was to allow the Commission to become involved in every dispute between a board president and the chief school administrator. If the first example constituted a violation, then any time a board president said that he or she did not like what the administrator was doing and asked him or her to stop, a complaint would be filed with the Commission. The

Commission does not believe that the Legislature intended to open that door. The third example does not provide sufficient detail to constitute a violation. Unfortunately, as with example one, disputes are going to arise and they should always be handled with professionalism. An administrator should never be made to feel that she is being intimidated into taking certain actions rather than consulted. In this instance, however, there is insufficient evidence to show that the complainant was harassed or intimidated in order to sustain a charge under (j). Even complainant says Mr. Jackson's actions "closely resemble" harassment and intimidation.

Regarding the second example, however, where screaming was involved, if proven, such conduct could constitute a failure to support and protect personnel in the proper performance of their duties. However, in this instance, there was no evidence to support the allegation that Mr. Jackson screamed at the complainant. The witnesses supported Mr. Jackson. Therefore, the Commission does not find that Mr. Jackson failed to support and protect school personnel and finds no probable cause to credit that allegation.

Last, complainant alleges that respondent violated N.J.S.A. 18A:12-24.1(j), which sets forth:

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

In order to prove this charge, complainant alleges that the members of the board did not inform her that there was any problem with her performance until it came time to renew her contract. Then, at the May 11, 2004 meeting, they began to say that her new contract would have to include corrective action and a mentor. Although she agreed to these conditions, the board failed to pass a motion to renew her contract by a vote of two opposed and two abstentions. In her supplement to her complaint, complainant alleges that board members sometimes alluded to faculty complaints, but Mr. Jackson never met with her to address complaints by any staff member.

Regarding the failure to renew her contract, the Commission believes that section (j) of the Code of Ethics refers to complaints by people other than the board members themselves. Therefore, the Board members' failure to discuss their own complaints with her would not constitute a violation. The Commission finds that the allegations regarding the complaints by staff that were alluded to by members of the Board are too vague to provide evidence of a violation of the Act. Therefore, the Commission finds no probable cause to credit the allegation that respondents violated N.J.S.A. 18A:12-24.1(j).

DECISION

For the foregoing reasons, the School Ethics Commission finds no probable cause to credit the allegations in the complaint that respondents violated the Code of Ethics for School Board Members under the School Ethics Act and therefore dismisses the complaint against the members of the Board of the Pleasantville Charter School for Academic Excellence.

This decision is a final decision of an administrative agency. Therefore, it may be appealed only to the Superior Court--Appellate Division. See, New Jersey Court Rule 2:2-3(a).

Paul C. Garbarini, Chairperson

Resolution Adopting Decision - C31-04

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 December 21, 2004, the Commission found no probable cause that respondents violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. and therefore dismissed the charges against them; and

Whereas, the Commission requested 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 with amendments as its decision in this matter on February 22, 2005 and directs its staff to make amendments consistent therewith and notify all parties to this action of the Commission's decision herein.

Paul C. Garbarini, Chairperson

I hereby certify that this decision was adopted with amendments by the School Ethics Commission at its public meeting on February 22, 2005.

Lisa James-Beavers
Executive Director