
IN THE MATTER : **BEFORE THE SCHOOL**
: **ETHICS COMMISSION**
:
OF :
: **SEC Docket No.: C47-05**
: **OAL Docket No. EEC2435-06**
:
DORIS GRAVES, :
PLEASANTVILLE BOARD OF EDUCATION, : **FINAL DECISION**
ATLANTIC COUNTY :
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On February 28, 2006, the School Ethics Commission found probable cause to credit the allegation that Doris Graves violated N.J.S.A. 18A:12-24(b) when she spoke with the Facilities Coordinator regarding his recommendation to transfer and demote her cousin, Harry Graves. The Commission also found probable cause to credit the allegations that Ms. Graves violated N.J.S.A. 18A:12-24.1(f) of the Code of Ethics for School Board Members when Ms. Graves spoke with the Facilities Coordinator regarding his recommendation to transfer and demote her cousin. At its meeting of March 28, 2006, the Commission voted to amend its decision to find probable cause that Ms. Graves also violated N.J.S.A. 18A:12-24.1(d) when she went to the personnel committee meeting and to the Facilities Coordinator to discuss the employment of her cousin.

The Commission transmitted the matter to the Office of Administrative Law (OAL) for a hearing in accordance with N.J.S.A. 18A:12-29b. Upon return of the matter from the OAL, pursuant to *N.J.S.A.* 52:14B-10(c) and *N.J.A.C.* 1:1-18.8 and for good cause shown, the Commission was granted an extension of time in which to issue its final decision in this matter. The Administrative Law Judge (ALJ) concluded in her initial decision that there is good cause for the Commission to determine that respondent's conduct constituted a violation of N.J.S.A. 18A:12-24.1(d) and to recommend a sanction in relation thereto.

The Deputy Attorney General (DAG) representing the Commission submitted timely exceptions in accordance with N.J.A.C. 1:1-18.4 and N.J.A.C. 1:6C-18.3, which were reviewed by the Commission. Exceptions submitted on behalf of the respondent were untimely; consequently, neither the exceptions nor the reply thereto were considered by the Commission.¹ The DAG argues that “[t]he evidence has demonstrated that respondent was acting in her official position as a Board member and used her official position to secure unwarranted employment and gain for her cousin when she confronted Mr. Marsh about his recommendation to demote Harry Graves.” (Commission’s Exceptions at page 5). The DAG urges the Commission to consider that N.J.S.A. 18A:12-24.1(f) prohibits using the schools not only for personal gain, but to acquire “a gain for friends.” Moreover, the DAG contends that “the testimony of both

¹ The decision was mailed to the parties on March 12, 2008 and the respondent’s exceptions were received by the Commission on March 26, 2008 which is outside the 13-day timeline provided in regulation. N.J.A.C. 1:1-18.4 and N.J.A.C. 1:6C-18.3.

Dr. Brooks and William Marsh based on their personal observation of [South Main Street School] support a finding that Harry Graves' reappointment was unwarranted." (*Id.* at p. 6)

The record of this matter and the Initial Decision of the ALJ were initially reviewed by the Commission at its April 1, 2008 meeting. The matter was tabled for further discussion and research. At its meeting of April 22, 2008, the Commission adopted the conclusions of the ALJ for the reasons expressed in her Initial Decision. In so doing, the Commission underscores that challenges to the factual findings rendered by an ALJ require the objecting party to provide the Commission with relevant portions of the transcript of the hearing in order to permit the Commission to assess the merits of those exceptions. *In re Morrison*, 216 N.J. Super. 143, 157-158 (App. Div. 1987) Here, however, no transcript was provided.

The Commission, therefore, accepts the ALJ's factual findings that the respondent and Mr. Graves did not have a close personal or social relationship so as to establish that he was a "friend" within the intendment of N.J.S.A. 18A:12-24.1(f). (Initial Decision at p. 6) Additionally, the Commission notes that even assuming, *arguendo*, Mr. Graves satisfied the definition of "a member of the immediate family," as required by N.J.S.A. 18A:12-24(b), the ALJ specifically found that "the removal of Harry Graves from his appointment as head custodian, as well as the other personnel actions proposed for the custodial staff, were matters questioned by Graves and other board members." (*Id.* at p. 7). As such, the ALJ properly concluded that Mr. Graves' "continued appointment as a head custodian may well have been warranted...." (*Id.* at p. 8)

The Commission further concurs that the respondent's actions establish that she violated N.J.S.A. 18A:12-24.1(d), which prohibits a Board member from administering the schools. The Commission notes that the regulations define such conduct as becoming "directly involved in activities or functions that are the responsibility of school personnel or the day to day administration." (N.J.A.C. 6A:28-7.1) The Commission has found a violation of N.J.S.A. 18A:12-24.1(d) where the respondent board member asked for copies of SAT reports directly from the guidance secretary, inspected lockers in the boys' locker room and instructed staff on the supervision of students. In the Matter of Lahn, Delsea Bd. of Ed., C25-05 (December 20, 2005) In Lahn, the guidance secretary was reprimanded because she gave the board member copies of the SAT reports. The respondent was also found in violation of N.J.S.A. 18A:12-24.1(j) for taking a parental complaint directly to the principal without first referring it to the superintendent. The Commission recommended a penalty of censure and the Commissioner concurred. In the Matter of Lahn, Delsea Bd. of Ed., decided by the Commissioner January 23, 2006.

Similarly, the Commission found board members in violation of N.J.S.A. 18A:12-24.1(d) when they met with representatives of the local Association to discuss the Association's concerns without advising or inviting the Superintendent. In the Matter of Gartland and Picardo, West Essex Bd. of Ed., C44-04 (March 28, 2006) The Commission therein recommended a penalty of one-month suspension for respondent Gartland and a penalty of censure for respondent Picardo, both of whom were also found to have violated N.J.S.A. 18A:12-24.1(c). The Commissioner approved the recommended penalties. In the Matter of Gartland and Picardo, West Essex Bd. of Ed., decided by the Commissioner June 12, 2006.

In the instant matter, the Commission recommends a penalty of censure. Although there was a single violation found, the ALJ specifically noted that the respondent acted improperly on two occasions:

Going directly to the Facilities Coordinator, even during what was admittedly a chance encounter, and discussing the proposed personnel action regarding Harry Graves was improper. Her concerns over the proposed actions should have been addressed to Superintendent Brooks. (footnote omitted). Respondent's attendance at the Personnel Committee meeting, of which she was not a member, was a continuation of her involvement in the issue. (Initial Decision at p. 9).

As a veteran Board member (Initial Decision at p. 2), the respondent should have known that her actions were outside the scope of her authority.

Accordingly, the Commission adopts the Initial Decision of the ALJ, as set forth above and recommends that the respondent be censured for violating N.J.S.A. 18A:12-24.1(d) of the Code of Ethics for School Board Members.

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, Ms. Graves 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.

Paul C. Garbarini
Chairperson

Mailing Date: _____

Resolution Adopting Decision – C47-05

Whereas, the Commission found probable cause to credit the allegation that Doris Graves N.J.S.A. 18A:12-24(b), and N.J.S.A. 18A:12-24.1(d) and (f) of the Code of Ethics for School Board Members;

Whereas, the Commission transmitted the matter to the Office of Administrative Law for a hearing; and

Whereas, the Administrative Law Judge concluded in her initial decision that there is good cause for the Commission to determine that respondent's conduct constituted a violation of N.J.S.A. 18A:12-24.1(d) and to recommend a sanction in relation thereto; and

Whereas, the Commission fully considered all of the documentation timely filed in response to the ALJ's decision and accepts the conclusions of the ALJ; and

Whereas, at its meeting of April 22, 2008, the Commission recommended that the Commissioner of Education impose a sanction of censure; and

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 the School Ethics Commission adopted this decision at its public meeting on May 27, 2008.

Joanne Boyle
Executive Director

E/IB/decisions/OAL/C47-05