
**IN THE MATTER OF
BRENDA C. MOISO
OCEAN CITY BOARD OF
EDUCATION,
CAPE MAYCOUNTY**

**BEFORE THE SCHOOL
ETHICS COMMISSION**

**SEC Docket No. 03-12
OAL Dkt. No. EEC 16381-12
FINAL DECISION**

PROCEDURAL HISTORY

This matter arises from a complaint filed on February 10, 2012 by Alice C. Wolf alleging that Brenda C. Moiso, a member of the Ocean City Board of Education (“Board”), violated the School Ethics Act (“Act”), N.J.S.A. 18A:12-21 *et seq.* By notice dated February 14, 2012, the complainant was advised that the complaint was deficient. On February 28, 2012, the complainant submitted an amended complaint alleging that the respondent violated N.J.S.A. 18A:12-24(a) and (c).

After obtaining an extension for good cause shown, on April 9, 2012, a Motion to Dismiss was filed on behalf of the respondent. On April 24, 2012, the complainant filed a reply to the Motion to Dismiss. N.J.A.C. 6A:28-8.2(a). The parties were notified that this matter would be scheduled for discussion by the Commission at its meeting on May 29, 2012 in order to make a determination regarding the respondent’s Motion to Dismiss. At its meeting on May 29, 2012, the Commission voted to grant the respondent’s Motion to Dismiss Counts 2, 4 and 5 and to deny the Motion to Dismiss as to Counts 1 and 3.

Pursuant to the Commission’s Decision on respondent’s Motion to Dismiss dated June 26, 2012, she filed an answer on July 19, 2012. The complainant and respondent were notified that this matter would be scheduled for discussion by the Commission at its meeting on September 25, 2012 for a probable cause determination on remaining Counts 1 and 3 in accordance with procedures set forth at N.J.A.C. 6A:28-10.7. At its September 25, 2012 meeting, the Commission found probable cause to credit the allegations in Counts 1 and 3, as set forth below. In accordance with N.J.A.C. 6A:28-10.7(c)2, the matter was transmitted to the Office of Administrative Law (OAL) for hearing.

Following the hearing on this matter, the Administrative Law Judge (ALJ) concluded that the respondent did not violate N.J.S.A. 18A:12-24(a) or (c) of the Act and dismissed the matter, stating the facts did not support a finding of a violation. The Commission obtained an extension of time in which to consider the full record of this matter at its April 22, 2014 meeting, including the exceptions and replies to the Initial Decision and replies to the exceptions, filed pursuant to N.J.A.C. 1:1-18.4 and N.J.A.C. 1:6C-18.3. At its meeting on April 22, 2014, the Commission reviewed the full record and adopted the findings and conclusions of the ALJ for the reasons expressed in his Initial Decision, as amplified herein.

ANALYSIS

Upon careful and independent review, the Commission finds that the record supports the ALJ's conclusion that the matter is ripe for summary dismissal. In so finding, the Commission concurs that the record shows that there is no genuine issue as to any material fact and the respondent is entitled to prevail as a matter of law inasmuch as the facts fail to demonstrate that respondent violated N.J.S.A. 18A:12-24(a) and (c) of the School Ethics Act. In doing so, the Commission determines that the respondent did not vote to pay her company when she voted to accept the Food Services Report. The Report acknowledged and memorialized all payments to cafeteria vendors, which had been approved and paid earlier by the Food Services Director and the School Business Administrator. Consequently, the respondent never had the opportunity to vote for payment because the vendors' invoices never came before the Board for a vote.

As the Administrative Law Judge points out, had the respondent actually voted on the payment to her business, then she would have violated the Act. The Commission concurs and adds that it is of no moment that the vendors were not identified or if the Board member forgets or was not mindful enough when she votes and receives a benefit. It is incumbent upon the Board member to question and be vigilant, particularly if there is a contract extant with the Board, whereby he or she receives some advantage, benefit or privilege. However, that is not the case here. There was no payment to this vendor or any other vendor attached to the Food Services Report and the respondent did not benefit from her vote.

DECISION

For the reasons set forth above, the Commission determines to adopt the ALJ's Initial Decision, granting summary decision to the respondent and dismissing alleged violations of N.J.S.A. 18A:12-24(a) and (c) of the School Ethics Act in the complaint. 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).

Mailing Date: May 28, 2014

Robert W. Bender, Chairperson

Resolution Adopting Decision – C03-12

Whereas, pursuant to N.J.A.C. 6A:28-10.8(a), the Commission voted to transmit this matter to the Office of Administrative Law for hearing; and

Whereas, the Administrative Law Judge concluded in his Initial Decision that summary decision should be granted to the respondent and the complaint should be dismissed; and

Whereas, the Commission considered the Initial Decision and the documentation filed in response to the ALJ's decision; and

Whereas, at its meeting of April 22, 2014, the Commission determined to adopt the Initial Decision of the ALJ; and

Whereas, the Commission finds that the within decision accurately memorializes its adoption of the Initial Decision;

Now Therefore Be It Resolved, the Commission hereby adopts the within decision as a Final Decision and directs it staff to notify all parties to this action of the decision.

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on May 27, 2014.

Joanne M. Restivo
Interim Executive Director
School Ethics Commission