

was transmitted to the Commission, and the decision was mailed to the parties on August 11, 2015. The Commission received the file from the OAL on August 12, 2015.

The ALJ concluded in his Initial Decision that Complainant's proofs were insufficient to support his claims that the Respondent violated the Code and dismissed the Complaint. No exceptions to the Initial Decision were filed by either party, pursuant to N.J.A.C. 1:1-15.4 et seq.

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. At its August 25, 2015 meeting, the Commission reviewed the record of this matter and the Initial Decision of the ALJ, at which time the Commission adopted the findings and conclusions of the ALJ for the reasons expressed in his Initial Decision.

ANALYSIS

Upon careful and independent review, the Commission finds that the record supports the ALJ's factual findings as well as the legal conclusion that the Complainant failed to meet his burden to prove by a preponderance of the credible evidence that the Respondent violated N.J.S.A. 18A:12-24.1(e) of the Code of Ethics for School Board Members. The ALJ reasoned that the purpose of Respondent's arm gestures were too "vague" to determine their meaning and too "speculative" to determine their intent. Consequently, the ALJ could find no violation of the Act and dismissed the Complaint. The Commission concurs. Moreover, this tribunal has determined that the record and decision in this matter are no longer under seal.

DECISION

The Commission determines to adopt the ALJ's Initial Decision on Remand, dismissing the complaint in its entirety. 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).

Robert W. Bender
Chairperson
School Ethics Commission

Mailing Date: September 23, 2015

Resolution Adopting Decision – C07-14

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, at its meeting on August 25, 2015, the Commission received and considered the Initial Decision of the Administrative Law Judge, including the record and all documents submitted to the ALJ; and

Whereas, neither party filed exceptions in response to the ALJ's decision; and

Whereas, the Administrative Law Judge concluded in his Initial Decision that the Complaint should be dismissed for failure of the Complainant to meet his burden to prove a violation of the Code by a preponderance of the credible evidence; and

Whereas, at its meetings of August 25, 2015 and September 22, 2015, the Commission determined to adopt the Initial Decision of the ALJ as the Final Decision and to unseal the record; 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 its staff to notify all parties to this action of the decision.

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its public meeting on September 22, 2015.

Joanne M. Restivo
Acting Executive Director
School Ethics Commission