

II. SUMMARY OF THE PLEADINGS

In the Complaint, Complainant alleges that although Respondent claims to live in the Ridgefield Park School District (District), surveillance footage, which includes photographic and video evidence, indicates he actually lives in Hillsdale, New Jersey, which is outside the District. As a result, Complainant alleges that Respondent violated N.J.S.A. 18A:12-1 and N.J.S.A. 18A:12-24.1(a).

In the Answer, Respondent argues that, contrary to Complainant's assertions, he resides within the District, and is legally serving as a member of the Board. Therefore, Respondent denies that he has violated N.J.S.A. 18A:12-1 or N.J.S.A. 18A:12-24.1(a). He also argues that, based on Complainant's admissions and statements during the criminal proceeding in Bergen County Superior Court, Complainant does not have standing to file this matter because he does not have personal knowledge of the facts at issue.

III. ANALYSIS

A. Jurisdiction of the Commission

Complainant argues that because Respondent does not reside in the District, his membership on the Board violates N.J.S.A. 18A:12-1 and N.J.S.A. 18A:12-24.1(a). Respondent counters that he is a bona fide resident of the District and, therefore, is lawfully serving as a Board member.

The authority of the Commission is limited to enforcing the Act, N.J.S.A. 18A:12-21 et seq., a set of minimum ethical standards by which all school officials must abide. The Commission has jurisdiction only over matters arising under the Act, and it may not receive, hear, or consider any matter that does not arise under the Act. N.J.A.C. 6A:28-1.4(a); N.J.A.C. 6A:28-10.2(a)(1). Consequently, and to the extent that Complainant seeks a determination from the Commission that Respondent violated N.J.S.A. 18A:12-1, the Commission dismisses that claim as it falls outside the scope, authority, and jurisdiction of the Commission. *See id.* If the Complainant wishes to pursue this claim, it would fall under the jurisdiction of the Department's Bureau of Controversies and Disputes.

B. Remaining Code Allegation

Complainant has the burden to factually establish a violation of the Code in accordance with the standards set forth in N.J.A.C. 6A:28-6.4(a). A complaint must include, among other requirements, specific allegations and the facts supporting them which gave rise to the alleged violation(s) of the Act. N.J.A.C. 6A:28-6.3(b)(3). The Commission's regulations authorize it, in its discretion, to dismiss a complaint when, on its face, it fails to allege facts sufficient to maintain a claim under the Act. N.J.A.C. 6A:28-10.2(a)(7); N.J.A.C. 6A:28-10.8(a)(5).

Complainant alleges that Respondent violated N.J.S.A. 18A:12-24.1(a) of the Code, and it provides:

- a. 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;

Pursuant to N.J.A.C. 6A:28-6.4(a)(1), factual evidence of a violation of N.J.S.A. 18A:12-24.1(a) *shall* include a copy of a final decision from any court of law or administrative agency of this State demonstrating that Respondent failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools, or that Respondent brought about changes through illegal or unethical procedures.

Even assuming the facts as alleged in the Complaint are true, Complainant has not provided a copy of a final decision from any court of law or other administrative agency demonstrating that Respondent violated N.J.S.A. 18A:12-1, and that he, as argued by Complainant, is not a bona fide resident of the District and, therefore, cannot lawfully serve as a member of the Board. Absent the issuance of such a final decision, and because the Commission does not have jurisdiction to determine whether Respondent has violated N.J.S.A. 18A:12-1 as alleged by Complainant, the Commission finds that even if all of the facts as alleged in the Complaint are true, there is *currently* insufficient credible evidence to support a finding that Respondent violated N.J.S.A. 18A:12-24.1(a).

Accordingly, and pursuant to its authority as set forth in N.J.A.C. 6A:28-10.2(a)(7) and N.J.A.C. 6A:28-10.8(a), the Commission dismisses this matter.

IV. DECISION

Based on the foregoing, and because the Commission does not have jurisdiction to adjudicate the alleged violation of N.J.S.A. 18A:12-1, and there is *currently* insufficient credible evidence to support a finding that Respondent violated N.J.S.A. 18A:12-24.1(a), the Commission dismisses the above-captioned matter, pursuant to its authority as set forth in N.J.A.C. 6A:28-10.2(a)(7) and N.J.A.C. 6A:28-10.8(a), for failure to state a claim upon which relief could be granted.

This decision is a final decision of an administrative agency and, therefore, it is appealable to the Superior Court, Appellate Division. See, New Jersey Court Rule 2:2-3(a).

Robert W. Bender, Chairperson

Mailing Date: September 26, 2018

**RESOLUTION ADOPTING DECISION IN
CONNECTION WITH C06-18**

WHEREAS, at its meeting on August 28, 2018, the School Ethics Commission (Commission) considered the Complaint, and the Answer to Complaint filed in connection with this matter; and

WHEREAS, at its meeting on August 28, 2018, the Commission discussed, pursuant to its authority as set forth in N.J.A.C. 6A:28-10.2(a)(7) and N.J.A.C. 6A:28-10.8(a)(5), dismissing the alleged violation of N.J.S.A. 18A:12-1 because it does not have jurisdiction to adjudicate this allegation; and

WHEREAS, at its meeting on August 28, 2018, the Commission discussed, pursuant to its authority as set forth in N.J.A.C. 6A:28-10.2(a)(7) and N.J.A.C. 6A:28-10.8(a)(5), dismissing the alleged violation of N.J.S.A. 18A:12-24.1(a) for failure to state a claim upon which relief could be granted; and

WHEREAS, at its meeting on August 28, 2018, the Commission discussed, pursuant to its authority as set forth in N.J.A.C. 6A:28-10.2(a)(7) and N.J.A.C. 6A:28-10.8(a)(5), dismissing the above-captioned matter in its entirety; and

WHEREAS, at its meeting on September 25, 2018, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on August 28, 2018; and

NOW THEREFORE BE IT RESOLVED, that the Commission hereby adopts the decision and directs its staff to notify all parties of its decision.

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on September 25, 2018.

Kathryn A. Whalen, Director
School Ethics Commission