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**BARBARA LESINSKI AND  
CONNIE BREECH**

v.

**ANGELA AHBEZ-ANDERSON,  
ASBURY PARK BOARD OF EDUCATION,  
MONMOUTH COUNTY**

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**BEFORE THE SCHOOL  
ETHICS COMMISSION**

**DOCKET NO.: C36-18**

**FINAL DECISION**

## **I. PROCEDURAL HISTORY**

This matter arises from a Complaint filed on June 13, 2018, by Barbara Lesinski and Connie Breech (Complainants), members of the Asbury Park Board of Education (Board), alleging that Angela Ahbez-Anderson (Respondent), also a member and President of the Board, violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. More specifically, the Complaint alleges that Respondent violated N.J.S.A. 18A:12-24.1(e) of the Code of Ethics for School Board Members (Code).

On June 15, 2018, the Complaint was sent to Respondent, via regular and certified mail, notifying her that charges were filed against her with the School Ethics Commission (Commission), and advising that she had twenty (20) days to file a responsive pleading. On July 27, 2018, and after receiving a brief extension, Respondent filed an Answer to Complaint (Answer).

By correspondence dated August 20, 2018, the parties were advised that this matter would be placed on the Commission's agenda for its meeting on August 28, 2018. As further detailed in this correspondence, and in accordance with N.J.A.C. 6A:28-10.8, the Commission advised that it could take one of several actions, including: (1) retaining the matter for a hearing by the Commission at a later date; (2) transmitting the matter to the Office of Administrative Law for a hearing; (3) tabling the matter; or (4) dismissing the matter.

At its meeting on August 28, 2018, the Commission considered the filings in this matter and, at its meeting on September 25, 2018, the Commission voted, 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), to dismiss the above-captioned matter for failure to state a claim upon which relief could be granted.

## **II. SUMMARY OF THE PLEADINGS**

### **A. Complaint**

Complainants allege that, on May 7, 2018, Complainant Lesinski received a telephone call from a resident inquiring as to whether she was aware that a funeral repast had occurred at the Asbury Park School District's (District) middle school. Complainant Lesinski contacted the Business Administrator, and he confirmed that the repast had occurred.

Later that day, Complainant Lesinski received a telephone call from Respondent, during which she advised Complainant Lesinski that she (Respondent) had approved and waived all facilities fees for the repast. During this conversation, Complainant Lesinski told Respondent that only the Board has the authority to waive facilities fees. According to Complainants, Respondent then told Complainant Lesinski that she had spoken to the State Monitor, and that she (Respondent) used her “Executive Authority” as the Board President to approve the event and waive all fees.

Later that evening, Respondent sent an email message to the Board confirming that, with the support of the State Monitor, she allowed a funeral repast to be held at the District’s middle school, and that, based on past practices, facilities fees had been waived.

According to Complainants, Board Policy 7510 (“Use of School Facilities”) and Regulation 7510 govern the use of school facilities and, as set forth therein, the Board, and not any individual Board member, has the authority to approve the use of facilities, and to waive facilities fees. Complainants further argue that Respondent’s role as Board President is defined by Board Policy 0171, N.J.A.C. 6A:32-3.1, N.J.S.A. 18A:19-1, N.J.S.A. 18A:19-9, N.J.S.A. 18A:24-32, and N.J.S.A. 18A:6-20. By unilaterally approving the use of facilities and waiving the facilities fees for the repast on May 5, 2018, Complainants argue that Respondent “exceeded her authority in her role as a Board President and as an individual Board Member,” and violated N.J.S.A. 18A:12-24.1(e).

## **B. Answer**

In her Answer, Respondent alleges that she was contacted by the Superintendent on May 3, 2018, and the Superintendent informed her (Respondent) that a community member wanted to use the District’s middle school on May 5, 2018, for a funeral repast for an alumnus of the District. The Superintendent informed Respondent that she (the Superintendent) recommended that the event be allowed, and that the facilities fees be waived. The Superintendent also advised Respondent that the State Monitor supported these recommendations. Respondent agreed with the Superintendent’s recommendation, and was aware “of a prior practice of allowing such events with a waiver of fees...without any formal Board...approval,” including one that had occurred approximately one year prior.

On May 7, 2018, Respondent learned, from the Business Administrator, that Complainant Lesinski had questions about the event, including why the full Board had not been informed. Respondent spoke with Complainant Lesinski later that day, confirmed that the repast had occurred, emphasized that it was her understanding that the State Monitor supported the decision, and pointed out that the approval was a time-sensitive matter with no time to call a special Board meeting in advance. Respondent also states that, later that same evening, she sent an email to the entire Board to advise each member of the recent events. In summary, Respondent argues that she acted in the good faith belief that the requested approval was in the best interests of the school district, that it was a time-sensitive matter and could not be addressed by the Board in time for the event on May 5, 2018, it was consistent with prior practice of granting such approvals under similar circumstances without formal Board approval, and that it was supported by the State Monitor who oversees the District’s financial/fiscal affairs.

Finally, Respondent argues that Complainant Lesinski filed this Complaint to cast a “negative light” on Respondent’s upcoming campaign for re-election, and that Complainant Breech

filed this Complaint because she is a law enforcement officer who has a personal animus against the individual for whom the repast was held.

### III. ANALYSIS

#### A. Jurisdiction of the Commission

Complainants argue that by unilaterally approving the use of facilities and waiving the facilities fees for the repast on May 5, 2018, Respondent “exceeded her authority in her role as a Board President and as an individual Board Member,” and violated N.J.S.A. 18A:12-24.1(e). According to Complainants, the limitations on Respondent’s role/authority as Board President and a Board member are defined by Board Policy 0171, N.J.A.C. 6A:32-3.1, N.J.S.A. 18A:19-1, N.J.S.A. 18A:19-9, N.J.S.A. 18A:24-32 and N.J.S.A. 18A:6-20, and the procedures for approving the use of facilities, including the waiver of facilities fees, are governed by Board Policy 7510 and Regulation 7510. Respondent counters that both the Superintendent and the State Monitor were aware of, and supported, her decision to approve and waive the facilities fees for the complained of repast. Respondent further argues that the decision was a time-sensitive matter, and could not be reviewed by the Board in a timely fashion. Respondent additionally argues that, based on past practice, the Board President has the authority to unilaterally waive facilities fees.

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 Complainants seek a determination from the Commission that Respondent violated Board Policy 7510, Regulation 7510, Board Policy 0171, N.J.A.C. 6A:32-3.1, N.J.S.A. 18A:19-1, N.J.S.A. 18A:19-9, N.J.S.A. 18A:24-32, and N.J.S.A. 18A:6-20, the Commission dismisses those claims as they fall outside the scope, authority, and jurisdiction of the Commission. See id. Instead, alleged violations of these policies, regulations, and statutes fall under the jurisdiction of the Bureau of Controversies and Disputes.

#### B. Code Allegation

Complainants have 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 that 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).

Complainants allege that Respondent violated N.J.S.A. 18A:12-24.1(e) of the Code, and it provides:

- e. I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board;

Pursuant to N.J.A.C. 6A:28-6.4(a)(5), factual evidence of a violation of N.J.S.A. 18A:12-24.1(e) *shall* include evidence that Respondent made personal promises or took action beyond the scope of her duties that, by its nature, had the potential to compromise the Board.

In order for the Commission to find, as argued by Complainants, that Respondent took action beyond the scope of her duties as a Board member, it would need to find, as a predicate matter, that Respondent violated Board Policy 7510, Regulation 7510, Board Policy 0171, N.J.A.C. 6A:32-3.1, N.J.S.A. 18A:19-1, N.J.S.A. 18A:19-9, N.J.S.A. 18A:24-32, and/or N.J.S.A. 18A:6-20. In making such a determination, the Commission would also need to consider whether, as argued by Respondent, the statutes, regulations, and/or Board policy cited by Complainants were modified or overruled by an alleged past practice and/or the authority of the Superintendent or State Monitor. Ultimately, and because, as detailed above, the Commission does not have jurisdiction to adjudicate alleged violations of Board Policy 7510, Regulation 7510, Board Policy 0171, N.J.A.C. 6A:32-3.1, N.J.S.A. 18A:19-1, N.J.S.A. 18A:19-9, N.J.S.A. 18A:24-32, and/or N.J.S.A. 18A:6-20, the Commission cannot determine whether Respondent exceeded the scope of her authority as set forth in those policies, regulations, and statutes. Therefore, the Commission finds that there is *currently* insufficient credible evidence to support a finding that Respondent violated N.J.S.A. 18A:12-24.1(e).

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 violations of Board Policy 7510, Regulation 7510, Board Policy 0171, N.J.A.C. 6A:32-3.1, N.J.S.A. 18A:19-1, N.J.S.A. 18A:19-9, N.J.S.A. 18A:24-32, and/or N.J.S.A. 18A:6-20, and there is *currently* insufficient credible evidence to support a finding that Respondent violated N.J.S.A. 18A:12-24.1(e), 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).

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Robert W. Bender, Chairperson

Mailing Date: September 26, 2018

**RESOLUTION ADOPTING DECISION IN  
CONNECTION WITH C36-18**

**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 violations of Board Policy 7510, Regulation 7510, Board Policy 0171, N.J.A.C. 6A:32-3.1, N.J.S.A. 18A:19-1, N.J.S.A. 18A:19-9, N.J.S.A. 18A:24-32, and/or N.J.S.A. 18A:6-20 because it does not have jurisdiction to adjudicate those allegations; 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(e) 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.

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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.

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Kathryn A. Whalen, Director  
School Ethics Commission