

Before the School Ethics Commission
OAL Docket No.: EEC-10183-20
SEC Docket No.: C19-20
Final Decision

**Sumbul J. Aslam,
Complainant**

v.

**Karen Scott,
Sparta Board of Education, Sussex County,
Respondent**

I. Procedural History

The above-captioned matter arises from a Complaint that was filed on May 7, 2020, by Sumbul J. Aslam (Complainant), alleging that Karen Scott (Respondent), a member of the Sparta Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* By correspondence dated May 11, 2020, Complainant was notified that the Complaint was deficient, and required amendment before the School Ethics Commission (Commission) could accept the filing. On June 5, 2020, Complainant cured all defects and filed an Amended Complaint (Complaint) that was deemed compliant with the requirements detailed in *N.J.A.C.* 6A:28-6.3. The Complaint alleges that Respondent violated *N.J.S.A.* 18A:12-24.1(a) of the Code of Ethics for School Board Members (Code) in Counts 1-2 and Count 4; violated *N.J.S.A.* 18A:12-24.1(e) of the Code in Counts 1-4; and violated *N.J.S.A.* 18A:12-24.1(f) of the Code in Counts 1-3.

On June 5, 2020, the Complaint was served on Respondent, via electronic mail, notifying her that charges were filed against her with the Commission, and advising that she had twenty (20) days to file a responsive pleading.¹ On July 14, 2020, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and also alleged that the Complaint is frivolous. On July 30, 2020, Complainant filed a response to the Motion to Dismiss and allegation of frivolous filing.

At its meeting on September 29, 2020, and after discussing the parties' filings at its previous monthly meeting, the Commission adopted a decision finding that the allegations in Count 1 were time barred, but that the allegations in Counts 2-3 were timely filed; denying the Motion to Dismiss as to the alleged violations of *N.J.S.A.* 18A:12-24.1(f) in Counts 2-3; and granting the Motion to Dismiss as to all other allegations in the Complaint. The Commission also adopted a decision finding the Complaint not frivolous and denying Respondent's request for sanctions. Based on its findings, the Commission directed Respondent to file an Answer to

¹ Due to the ongoing Coronavirus (COVID-19) pandemic, service of process was effectuated by the Commission through electronic transmission only.

Complaint (Answer), which she did on October 16, 2020. Thereafter, the above-captioned matter was transmitted to the Office of Administrative Law (OAL).

At the OAL, the matter was assigned to the Honorable Danielle Pasquale, Administrative Law Judge (ALJ Pasquale). After several settlement conferences failed to yield an agreeable resolution to the Complaint filed in the above-captioned matter, Respondent filed a Motion for Summary Decision on December 15, 2021. *Initial Decision* at 2. Counsel for Respondent agreed that Complainant, as a pro se party, “could have as long an extension as she required to make the decision to oppose it or not.” *Id.* As of March 30, 2022, Complainant had not requested an extension or opposed Respondent’s Motion for Summary Decision, and confirmed to ALJ Pasquale’s office that no such filing was forthcoming. *Id.* Consequently, ALJ Pasquale issued her *Initial Decision* on April 8, 2022.

The Commission acknowledged receipt of ALJ Pasquale’s *Initial Decision* on the date it was issued (April 8, 2022); therefore, the forty-five (45) day statutory period for the Commission to issue a Final Decision was May 23, 2022. Prior to May 23, 2022, the Commission requested a forty-five (45) day extension of time to issue its decision so as to allow the Commission, which only meets monthly, the opportunity to receive and review the full record, including the parties’ Exceptions (if any). 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 until July 7, 2022.

At its meeting on May 24, 2022, the Commission discussed the above-captioned matter, and at its meeting on June 28, 2022, the Commission voted to adopt a decision adopting the findings of fact from ALJ Pasquale’s *Initial Decision*; adopting the legal conclusion that Respondent did not violate *N.J.S.A. 18A:12-24.1(f)* in Count 2 and/or Count 3; and dismissing the above-captioned matter.

II. Initial Decision

In ruling on Respondent’s Motion for Summary Decision, ALJ Pasquale found the following facts to be undisputed:

- ❖ In February of 2018, Respondent resigned from the Board.
- ❖ Respondent is not listed as a Board member in the Board’s February 26, 2018, minutes.
- ❖ On March 26, 2018, Respondent’s child was approved as a new substitute custodian for the remainder of the 2017-2018 school year.
- ❖ On March 26, 2018, Respondent was not a Board member.
- ❖ Board member Curcio announced at the May 21, 2018, Board meeting that she was resigning from the Board (and that the May 21, 2018, meeting would be her last).

- ❖ At a special meeting on June 25, 2018, Respondent was sworn-in as a new Board member.
- ❖ At a Board meeting on August 27, 2018, Respondent's child was reappointed as a substitute custodian for the 2018-2019 school year. Respondent's child appeared as one (1) of thirty-three (33) personnel items listed on the agenda, and all personnel items on the agenda (except one) passed by unanimous vote.
- ❖ Also, at the August 27, 2018, Board meeting, Respondent voted to approve the Superintendent's merit bonus, and all members present (including Respondent) "unanimously agreed that the Superintendent had met his qualitative and quantitative goals for the prior ... school year, and voted to approve the merit bonus" for the Superintendent.
- ❖ Complainant alleged Respondent voted to renew her child as a substitute custodian at the August 26, 2019, Board meeting.
- ❖ Respondent's child does not appear in the August 26, 2019, Board minutes as a new appointment, reappointment, or renewal to the substitute custodian position (or any other) for the 2019-2020 school year.
- ❖ Complainant alleges Respondent improperly voted on the Superintendent's merit bonus and contract renewal while her child was employed by the Sparta School District (District).
- ❖ Respondent's child's position as a substitute custodian for the 2018-2019 school year ended on June 30, 2019.
- ❖ At the August 26, 2019, Board meeting, Respondent voted to approve the Superintendent's merit bonus (the motion carried 6-3).
- ❖ On August 27, 2019, the Superintendent sent a letter to the Board President, Board VP, and Personnel Committee Chairperson (Respondent), notifying the Board of his desire to renew his contract and enter into a new contract on or before November 1, 2019.
- ❖ At a Board meeting on September 23, 2019, members of the public commented both in favor and against renewing the Superintendent's contract, including discussions on renewing it early, prior to its expiration on June 30, 2020.
- ❖ The Board published a "Legal Notice" advising the public that it intended to conduct a hearing during the Board meeting on October 28, 2019, to discuss the Superintendent's contract renewal.
- ❖ On October 26, 2019, Respondent, along with four other Board members, voted to renew the Superintendent's contract (vote 5-3-1).

- ❖ On or about June 5, 2020, Complainant filed the Complaint against Respondent with the Commission.
- ❖ In Counts 2-3 Complainant alleges Respondent violated *N.J.S.A.* 18A:12-24.1(f).
- ❖ The Commission’s September 29, 2020, decision referred the matter to resolve two questions regarding Respondent’s conduct in late 2019 (and on August 26, 2019, in particular), whether she voted on the Superintendent’s merit bonus and contract renewal while her child was employed by the Board and whether she did so “*in order* to acquire a benefit for her child.”

Id. at 2-5.

In the “Legal Discussion and Conclusions” section of her *Initial Decision*, ALJ Pasquale noted that, per the Commission’s September 29, 2020, decision, the allegations in Count 2 could only be sustained “[i]f Complainant can prove ... that Respondent used the schools, namely her position as a member of the Board, and voted to approve the Superintendent’s contract at the time her child was employed in the District, and did so *in order* to acquire a benefit for her child,” and if Complainant could prove “that Respondent’s [child] is a member of [her] ‘immediate family.’” *Id.* at 7. As for those in Count 3, the allegations could only be established if Complainant “can demonstrate ... that at the ti[m]e Respondent voted to approve the merit bonus, her child was employed in the District and her affirmative vote constituted use of the schools *in order* to acquire a benefit for a member of her immediate family,” and that, once again, Respondent’s child fell within the ambit of a “member of immediate family.” *Id.* at 8.

In her review, ALJ Pasquale found that, despite the Commission’s direction for establishing a violation(s), there is “no evidence from Complainant to show that [Respondent’s child] was an immediate [family] member under the definition,” and “no proof at all” that Respondent’s actions were “done to benefit her [child].” *Id.* at 8. Instead, “the official records of the relevant Board meetings demonstrate that [Respondent’s child] was not employed by the District when Respondent voted on the Superintendent’s contract renewal.” *Id.*

ALJ Pasquale continued, “In order to defeat a Motion for Summary Judgment, the non-moving party must establish legally competent facts which are essential to meeting its evidentiary burden.” *Id.* at 9. In this matter, Complainant did not file a written opposition to Respondent’s motion and the “allegations contained in the Petition and supporting documentation largely rely on news articles and unsubstantiated allegations that jump to a conclusion.” *Id.* Furthermore, Complainant did not provide any certifications or other documents to “support such allegations or that the votes taken by [Respondent] were done for the benefit of her [child] which is what the [Commission’s] decision instructs that [ALJ Pasquale] decide in the OAL matter.” *Id.* ALJ Pasquale maintains the evidence indicates that Respondent’s child “did not work for the District at that time” of Respondent’s actions; Complainant did not provide any evidence to demonstrate that Respondent’s child “meets the definition of ‘immediate family’”; and Complainant did not provide any evidence to support the allegation that “the votes taken were for the benefit of [Respondent’s child] or any other party.” *Id.*

Therefore, and because Complainant’s “submission ... present[s] merely insubstantial allegations that do not establish a violation of the remaining ... statutes even taking those facts [in the light] most favorable” to Complainant, ALJ Pasquale *found* Complainant did not provide “any affidavits or any other exhibits to support her contentions” and did not “offer a different version of facts” than those presented by Respondent, which “prove the allegations in the Complaint that the votes that were taken were inappropriate in any way or [were] made to benefit [Respondent’s child].” *Id.* at 10.

Based on the foregoing facts, and in her review of the applicable law and evidentiary standard, ALJ Pasquale **concluded** that Complainant has not met her burden of proving that a dispute of material facts exists with regard to Count 2 and/or Count 3; **concluded** the Complaint and its allegations are deficient as a matter of law; and Respondent’s Motion for Summary Decision is granted. *Id.* Accordingly, ALJ Pasquale ordered the matter **dismissed**. *Id.* at 11.

III. Exceptions

Neither Complainant nor Respondent filed Exceptions to ALJ Pasquale’s *Initial Decision*.

IV. Analysis

Upon a thorough, careful, and independent review of the record, the Commission finds that without any certifications, documents, or other factual evidence demonstrating that a member of Respondent’s immediate family was working in the District at the time she voted on the personnel matter(s) in question and/or that Respondent’s votes were specifically taken to benefit a member of her (Respondent’s) immediate family, the record supports the findings of fact in ALJ Pasquale’s *Initial Decision*, and also supports ALJ Pasquale’s legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24.1(f) in Count 2 and/or Count 3.

V. Decision

After review, the Commission adopts ALJ Pasquale’s *Initial Decision* finding that Respondent did not violate *N.J.S.A.* 18A:12-24.1(f) in Count 2 and/or Count 3, and dismissing the above-captioned matter.

Therefore, this is a final agency decision and is appealable only to the Superior Court-Appellate Division. *See, N.J.A.C.* 6A:28-10.11 and *New Jersey Court Rule* 2:2-3(a).

Robert W. Bender, Chairperson

Mailing Date: June 28, 2022

**Resolution Adopting Decision
in Connection with C19-20**

Whereas, at its meeting on September 29, 2020, the School Ethics Commission adopted a decision finding that the allegations in Count 1 were time barred, but that the allegations in Counts 2-3 were timely filed; denying the Motion to Dismiss as to the alleged violations of *N.J.S.A.* 18A:12-24.1(f) in Counts 2-3; granting the Motion to Dismiss as to all other allegations in the Complaint; finding the Complaint not frivolous and denying Respondent’s request for sanctions; and directing Respondent to file an Answer to Complaint (Answer); and

Whereas, on October 16, 2020, Respondent filed an Answer as directed, and the above-captioned matter was transmitted to the Office of Administrative Law (OAL); and

Whereas, following transmittal, the Honorable Danielle Pasquale, Administrative Law Judge (ALJ Pasquale) issued an *Initial Decision* dated April 8, 2022; and

Whereas, neither Complainant nor Respondent filed Exceptions to the *Initial Decision*; and

Whereas, in her *Initial Decision*, ALJ Pasquale found that Respondent did not violate *N.J.S.A.* 18A:12-24.1(f) in Count 2 and/or Count 3, and ordered the dismissal of the above-captioned matter; and

Whereas, at its meeting on May 24, 2022, the Commission reviewed and discussed the record, including ALJ Pasquale’s *Initial Decision*; and

Whereas, at its meeting on May 24, 2022, the Commission discussed adopting the findings of fact from the *Initial Decision*, adopting the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24.1(f) in Count 2 and/or Count 3, and dismissing the above-captioned matter; and

Whereas, at its meeting on June 28, 2022, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on May 24, 2022; and

Now Therefore Be It Resolved, the Commission hereby adopts the within decision.

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its meeting on June 28, 2022.

Kathryn A. Whalen, Esq.
Director, School Ethics Commission