

Before the School Ethics Commission
OAL Docket No.: EEC-01671-22
SEC Docket No.: C37-21
Final Decision

In the Matter of Jeanne Stifelman,
Randolph Township Board of Education, Morris County,
Respondent

I. Procedural History

The above-captioned matter arises from a Complaint that was filed on August 9, 2021, by Layne Broyles (Complainant Broyles), Maria Ricupero (Complainant Ricupero), Eliza Schleifstein (Complainant Schleifstein), and Gerlando Termini (Complainant Termini) (collectively referred to as Complainants), alleging that Jeanne Stifelman (Respondent), a member of the Randolph Township Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* More specifically, the Complaint avers that Respondent violated *N.J.S.A.* 18A:12-25(c) and *N.J.S.A.* 18A:12-26 for failing to include monetary payments she received in a settlement with the Board on her 2019 Personal/Relative and Financial Disclosure Statement (Disclosure Statement).

At its meeting on December 14, 2021, and after reviewing Respondent's Motion to Dismiss in Lieu of an Answer (Motion to Dismiss) and allegation of frivolous filing, and Complainants' response thereto, the School Ethics Commission (Commission) adopted a decision denying the Motion to Dismiss in its entirety and directing Respondent to file an Answer to Complaint (Answer), which she did on January 4, 2022.

Thereafter, at its meeting on February 25, 2022, the Commission voted to find probable cause for the alleged violations of the Act in the Complaint. Based on its finding of probable cause, the Commission voted to transmit the within matter to the Office of Administrative Law (OAL) for a hearing and, pursuant to *N.J.A.C.* 6A:28-10.7(b),¹ the attorney for the Commission (Petitioner) was charged with prosecuting the allegations in the Complaint.

Following cross-motions for Summary Decision at the OAL, the Administrative Law Judge (ALJ), issued an Initial Decision on August 17, 2023. Petitioner filed exceptions to the Initial Decision, in accordance with *N.J.A.C.* 1:1-18.4, and Respondent filed a reply thereto.

At its meeting on October 17, 2023, the Commission considered the full record in this matter. Thereafter, at its meeting on November 28, 2023, the Commission voted to adopt the ALJ's findings of fact but reject the ALJ's legal conclusions. Instead, the Commission found that Respondent violated *N.J.S.A.* 18A:12-25(c) and *N.J.S.A.* 18A:12-26, but recommended that a penalty should not be imposed.

¹ This citation refers to the regulation that was in effect at the time of the probable cause determination.

II. Initial Decision

Respondent and her husband entered into a settlement agreement (Settlement) with the Board in 2018, which included tuition reimbursement for their child's out of district placement. *Initial Decision* at 2.

After previously serving on the Board from 2009 to 2012, Respondent was appointed to the Board in April 2019 to fill a vacancy. *Ibid.* Respondent filed her 2019 Disclosure Statement on or about June 5, 2019, and answered "Not Applicable," for Section III, question 2, which directs individuals to "[l]ist the name and address of each source of fees/honorariums or gifts/reimbursements or prepaid expenses having an aggregate amount exceeding \$250 from any single source, excluding relatives, received by you or an immediate family member." *Ibid.* The question further reminds individuals to "[b]e sure to list any reimbursement you received from the district or charter school for things such as conference attendance, tuition/dues reimbursement, personal appearances, speeches, or writing." *Ibid.* Respondent's 2019 Disclosure Statement did not disclose the payments she was receiving from the Settlement. *Ibid.*

The ALJ explains the 2019 Disclosure Statement reflects the finances from the preceding calendar year, 2018. *Id.* at 7. While Petitioner argues Respondent knew of her 2018 tuition reimbursement payments at the time she filed her 2019 Disclosure Statement, and she should have disclosed them, Respondent contends that this particular Settlement reflects "educational placement and reimbursement of 'out-of-pocket expenses that the school district should have paid all along and would have borne in the first instance had it developed a proper IEP.'" *Ibid.*

The ALJ finds that *In the Matter of Lorraine Dunckley, Denville Bd. of Education*, SEC Dkt. No. C37-01 (July 23, 2002) (*Dunckley*), the Commission excused a board member who was the parent of a child with special needs from disclosing receipt of tuition reimbursements pursuant to a settlement agreement on her Disclosure Statement. *Initial Decision* at 7-8. The ALJ maintains that the "purpose of disclosing sources of income or reimbursements outside of one's regular" employment is to prevent the school official from "receiving unwarranted benefit," not to prevent a child from receiving a "(belatedly) free and appropriate public education under the law." *Id.* at 8. Therefore, based on *Dunckley*, the ALJ in the present matter concludes a "reasonable member of the public" would not believe that their trust is being violated because a parent kept their child's special education record confidential. *Ibid.* The ALJ also concludes Petitioner has failed to demonstrate that Respondent violated the Act, and therefore, orders the Complaint to be dismissed with prejudice. *Id.* at 8-9.

III. Exceptions

Petitioner's Exceptions

In its exceptions, Petitioner argues the ALJ "incorrectly found that tuition reimbursement payments are not required to be disclosed" under *N.J.S.A.* 18A:12-26; therefore, the Initial Decision should be rejected. Petitioner contends it is undisputed that Respondent did not include the tuition reimbursement on her 2019 Disclosure Statement and that in 2018 Respondent received seven separate check registers from the Board. However, despite these

acknowledgments, Respondent did not disclose the payments. Per Petitioner, the statute must be interpreted by looking at the plain language and the statute “must be afforded ‘ordinary meaning and significance.’” In this case, Petitioner maintains Respondent was required to disclose the payments, which were reimbursements that had an aggregate value over \$250. Moreover, Petitioner notes a finding that “the payments [Respondent] received do not fall within *N.J.S.A.* 18A:12-26(a)(1) or *N.J.S.A.* 18A:12-26(a)(3) would go against the clear legislative intent of preserving the public trust.” Petitioner notes the ALJ correctly found, “it is immaterial whether [Respondent] believed that she was not required to disclose the tuition reimbursement.” Petitioner further notes if Respondent was uncertain whether she should report the reimbursement, “there were several options available to her for consultation” that Respondent did not use. Therefore, Petitioner maintains Respondent violated *N.J.S.A.* 18A:12-26.

For the same reasons noted above, Petitioner asserts the ALJ erred in determining that a violation of *N.J.S.A.* 18A:12-25(c) was not established. Petitioner further asserts Respondent knew about the payments because she was receiving them, and in turn, was aware of the payments at the time she completed her Disclosure Statement. Petitioner notes the Commission has “definitively rejected the position that any form of intent is needed to prove a violation of any provision of the Act.” Moreover, Petitioner argues “omitting material information required under *N.J.S.A.* 18A:12-25 defeats the purpose of the disclosure forms, which is to allow the public access to information to ensure that school officials do not violate the public trust.” Petitioner maintains the ALJ’s determination that “payments stemming from tuition reimbursement of special education disputes are not required to be disclosed” is flawed. Per Petitioner, “there are no listed exceptions to *N.J.S.A.* 18A:12-26, *N.J.S.A.* 18A:12-25, or elsewhere in the [Act]” and *Dunckley* does not address this issue. Petitioner further maintains the ALJ’s determination that the “public’s trust is [not] being violated by a parent keeping their child’s special education records confidential” is unsupported. Moreover, the Disclosure Statement does not require the disclosure of confidential student records, nor does it require that Respondent divulge the contents of the settlement agreement or the reason why she is receiving the reimbursement. Petitioner maintains Respondent merely had to disclose receipt of a reimbursement.

As to the ALJ’s reliance on *Dunckley*, Petitioner notes there is “no such finding” in the case that payments resulting from tuition reimbursement of special education disputes are not required to be disclosed. Additionally, Petitioner contends that the ALJ’s suggestion that because *Dunckley* received a reprimand for the actions described in that decision, Respondent should not receive a penalty at all, is off the mark. Petitioner argues, on the contrary, the penalty in *Dunckley*, was a censure.

Petitioner contends Respondent violated *N.J.S.A.* 18A:12-26 and *N.J.S.A.* 18A:12-25, the ALJ’s decision should be rejected, and a penalty of censure should be imposed.

Respondent’s Exceptions

Respondent initially argues that Petitioner reiterates “the arguments expressed in its original brief which were rejected by the” ALJ instead of directly responding to the ALJ’s findings, and therefore, should not be considered. Respondent contends Petitioner’s argument

that Respondent could have included the reimbursement on her Disclosure Statement without revealing the confidential matter involving her child, “is belied by the documents upon which he relies.” According to Respondent, that claim “is debunked” because the Complaint was based “upon the dogged efforts of a political rival after discovering that [Respondent] and her husband’s names were inadvertently (and improperly) not redacted from a check register from the” Board and this led Complainant to believe that this “must have been due to their [child’s] out of district placement especially as [Respondent] was not a Board [m]ember when those checks were issued.” Respondent notes that requiring school officials to denote a payment for special education services that would be published for the public to see would likely deter individuals who have a child with special needs from running for a seat on the Board.

Respondent maintains the ALJ correctly found that she did not violate the Act by keeping the reimbursement for her child’s out of district placement confidential. Respondent further maintains the ALJ’s decision should be affirmed, the Commission should uphold the determination that Respondent did not violate the Act, and a penalty should not be imposed.

IV. Analysis

Upon a careful, thorough, and independent review of the record, the Commission adopts the ALJ’s findings of fact, rejects the ALJ’s legal conclusions, finds that Respondent violated *N.J.S.A.* 18A:12-25(c) and *N.J.S.A.* 18A:12-26, but recommends that a penalty not be imposed.

Pursuant to *N.J.S.A.* 18A:12-26(a)(3), school officials are required to annually file a Disclosure Statement with the Commission, which includes the “source of gifts, reimbursements or prepaid expenses having an aggregate value of \$250 from any single source excluding relatives, received by the school official or a member of his immediate family during the preceding calendar year.” A school official who files a Disclosure Statement “containing information which the school official knows to be false” shall be subject to a penalty of reprimand, censure, suspension, or removal, in accordance with *N.J.S.A.* 18A:12-25(c).

The 2019 Disclosure Statement specified that filers should “[b]e sure to list any reimbursement received from the district or charter school for things such as conference attendance, *tuition/dues reimbursement*, personal appearances, speeches, or writing.” (emphasis added). While it is undisputed that Respondent received reimbursement from the Board in 2018 related to her child’s out of district placement, she did not include this on her 2019 Disclosure Statement.

When interpreting a statute, the goal is to discern the legislative intent, which can be gleaned from the plain meaning of the language. *Board of Education of the City of Sea Isle City v. Kennedy*, 196 *N.J.* 1, 12 (2008). *N.J.S.A.* 18A:12-26(a)(3) unambiguously requires the disclosure of the source of reimbursements. The payments that Respondent received from the Board reflected reimbursement for money spent on her child’s educational placement, and were therefore required to be disclosed. While the Commission is sensitive to Respondent’s argument that special education matters are confidential, the Commission notes that the disclosure form does not require disclosure of the amount of reimbursement or the purpose of payment. By listing the Board as a response to Section III, question 2 on her 2019 Disclosure Statement,

Respondent would only be indicating that the Board was a source of either a gift, a reimbursement or a prepaid expense having an aggregate value of \$250 during the preceding calendar year. Such a response would not reveal the reason for the reimbursement, nor that Respondent entered into a settlement with the Board. To the contrary, board members often list boards of education as the source of gifts or reimbursement, given the frequency that boards of education pay for board members to attend conferences or events, or for their membership dues to board member organizations.

The Commission finds the ALJ's reliance on *Dunckley* is misplaced. The respondent in *Dunckley* was censured for not disclosing the source of prepaid expenses for her conference attendance, and for voting on a bill list that included a reimbursement to her and her husband and for voting on a tuition payment to the school where her husband was employed. *Dunckley*, SEC Dkt. No. C37-01, at 7. *Dunckley* does not address whether tuition reimbursements for out of district placements need to be disclosed on Disclosure Statements. While it appears the respondent in *Dunckley* received reimbursement for the cost of her child's tuition, the case addressed her vote to approve the board's payment of those funds, and not whether she disclosed the payments on her Disclosure Statement. *Id.* at 6-7. In *Dunckley*, the respondent's violation involving failure to disclose information on her Disclosure Statement stemmed from her attendance at a conference, and not from reimbursement for her child's tuition. *Id.* at 5-6. As such, *Dunckley* is not applicable to the present matter, and the Commission finds that Respondent violated the Act by failing to disclose reimbursement that she received from the Board.

Despite the Commission's determination that Respondent violated the Act, the Commission recognizes the sensitive nature of the information at issue and Respondent's well-intended motive to protect her child. As such, the Commission recommends that a penalty not be imposed on Respondent.

V. Decision

For the aforementioned reasons, the Commission adopts the ALJ's findings of fact, rejects the legal conclusions, finds that Respondent violated *N.J.S.A.* 18A:12-25(c) and *N.J.S.A.* 18A:12-26, but recommends that a penalty not be imposed.

Pursuant to *N.J.S.A.* 18A:12-29(c), this decision shall be forwarded to the Commissioner of Education for review of the Commission's recommended penalty. The parties may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's finding of a violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of a violation.

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of a violation may file, **within thirteen (13) days** from the date the Commission's decision is forwarded to the Commissioner, written exceptions regarding the recommended penalty to the Commissioner. The forwarding date shall be the mailing date to the parties, as indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, New Jersey 08625,

marked “Attention: Comments on Ethics Commission Sanction,” as well as to (ControversiesDisputesFilings@doe.nj.gov). A copy must also be sent to the Commission (school.ethics@doe.nj.gov) and all other parties.

Parties seeking to appeal the Commission’s finding of violation *must* file an appeal pursuant to the standards set forth at *N.J.A.C. 6A:4:1 et seq.* **within thirty (30) days** of the filing date of the decision from which the appeal is taken. The filing date shall be three (3) days after the date of mailing to the parties, as shown below. In such cases, the Commissioner’s review of the Commission’s recommended sanction will be deferred and incorporated into the Commissioner’s review of the finding of violation on appeal. Where a notice of appeal has been filed on or before the due date for exceptions to the Commission’s recommended sanction (thirteen (13) days from the date the decision is mailed by the Commission), exceptions need not be filed by that date, but may be incorporated into the appellant’s briefs on appeal.

Robert W. Bender, Chairperson

Mailing Date: November 28, 2023

***Resolution Adopting Decision
in Connection with C37-21***

Whereas, at its meeting on February 25, 2022, the School Ethics Commission (Commission) voted to transmit the above-captioned matter to the Office of Administrative Law (OAL) for a hearing; and

Whereas, the Administrative Law Judge (ALJ) issued an Initial Decision dated August 17, 2023; and

Whereas, the ALJ found that Respondent did not violate *N.J.S.A.* 18A:12-25(c) and/or *N.J.S.A.* 18A:12-26, and ordered the dismissal of the above-referenced matter; and

Whereas, Petitioner filed exceptions to the Initial Decision and Respondent filed a reply; and

Whereas, at its meeting on October 17, 2023, the Commission reviewed the record in this matter and discussed adopting the ALJ's findings of fact, rejecting the ALJ's legal conclusions, finding that Respondent violated *N.J.S.A.* 18A:12-25(c) and *N.J.S.A.* 18A:12-26, but recommending that a penalty not be imposed; and

Whereas, at its meeting on November 28, 2023, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on October 17, 2023; 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 regularly scheduled meeting on November 28, 2023.

Brigid C. Martens, Director
School Ethics Commission