

Before the School Ethics Commission
Docket No.: C07-24
Decision on Probable Cause

Christo Makropoulos,
Complainant

v.

Joseph Romano,
Edison Township Board of Education, Middlesex County,
Respondent

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on January 23, 2024, by Christo Makropoulos (Complainant), alleging that Joseph Romano (Respondent), a member of the Edison 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:12-24(b)* and *N.J.S.A. 18A:12-24(c)* in Counts 1 and 2.

On March 21, 2024, Respondent filed a Written Statement. The Commission considered the above-referenced matter at its meeting on July 23, 2024, to make a determination regarding probable cause, but instead voted to table the matter so that Respondent could submit an Amended Written Statement, which he did on August 2, 2024.

Thereafter, the parties were notified by correspondence dated August 20, 2024, that the above-captioned matter would be discussed by the Commission at its meeting on August 27, 2024, in order to make a determination regarding probable cause. Following its discussion on August 27, 2024, the Commission adopted a decision at its meeting on September 24, 2024, finding that there are insufficient facts and circumstances pled in the Complaint and in the Written Statement to lead a reasonable person to believe that the Act was violated as alleged in the Complaint.

II. Summary of the Pleadings

A. *The Complaint*

In Count 1, Complainant maintains that Respondent, who is also the Board Vice President and chairperson to the Transportation committee, has been cohabitating with an individual with whom he has a personal relationship (individual) for the past three years. According to Complainant, Respondent “played a role in influencing the [Board’s] transportation department to hire [the individual] as a transportation specialist.” Complainant further maintains these practices potentially violate the nepotism policy and “undermine the principles of fair employment and erode public trust in the decision-making process” of the Board. Moreover, Complainant notes Respondent did not disclose his relationship and “intentionally walked out just 10 seconds before” the motion and the vote to hire the

individual on August 15, 2023. Complainant asserts Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c), as well as *N.J.A.C.* 6A:23A-6.2 and Board Policy 0142.1.

In Count 2, Complainant asserts that in September 2023, the individual's daughter (daughter) was hired in the Edison Township School District (District). Once again, Complainant notes Respondent did not disclose the relationship nor abstain from voting on the daughter's employment. Complainant further asserts Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c), as well as *N.J.A.C.* 6A:23A-6.2 and Board Policy 0142.1, because this is a "clear conflict of interest and nepotism," which is evident "in the failure to maintain transparency and impartiality in the decision-making process."

B. *Amended Written Statement*

Respondent admits that he is in a "romantic relationship" with the individual; however, he indicates they do not live together, do not have joint assets and are not financially co-dependent. Respondent states that the individual was recommended by the administration for a position in the transportation department. According to Respondent, at the meeting in question, the individual was included on the personnel report, and Respondent did not participate in the vote and left the dais during voting.

Respondent further admits that the individual's daughter was also recommended by the administration for a position as a pre-school teacher. Per Respondent, the daughter does not live with either the individual or Respondent. Respondent confirms he did vote on the personnel report, which included the daughter.

Respondent notes the individual and the daughter are not members of his immediate family, nor relatives; however, they would be considered to be "others." Therefore, as "others," Respondent maintains a violation of *N.J.S.A.* 18A:12-24(c) cannot be sustained. As to a violation of *N.J.S.A.* 18A:12-24(b), Respondent argues that Complainant did not provide any evidence to demonstrate that Respondent used his position to "improperly secure any position for [the individual] or [the daughter]." Moreover, Respondent asserts that he did not participate in the vote related to the individual. Consequently, Respondent maintains the Complaint "should be dismissed in its entirety as lacking probable cause."

III. Analysis

This matter is before the Commission for a determination of probable cause pursuant to *N.J.A.C.* 6A:28-9.7. A finding of probable cause is not an adjudication on the merits but, rather, an initial review whereupon the Commission makes a preliminary determination as to whether the matter should proceed to an adjudication on the merits, or whether further review is not warranted. Pursuant to *N.J.A.C.* 6A:28-9.7(a), probable cause "shall be found when the facts and circumstances presented in the complaint and written statement would lead a reasonable person to believe that the Act has been violated."

Jurisdiction of the Commission

In reviewing the allegations in this matter, the Commission notes that its authority 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. In this regard, 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).

With the jurisdiction of the Commission in mind, to the extent that Complainant seeks a determination from the Commission that Respondent's conduct/actions may have violated nepotism rules, specifically *N.J.A.C.* 6A:23A-6.2 and/or Board Policy 0142.1, the Commission advises that such determinations fall beyond the scope, authority, and jurisdiction of the Commission. Although Complainant may be able to pursue a cause of action(s) in the appropriate tribunal, the Commission is not the appropriate entity to adjudicate those claims. Accordingly, those claims are dismissed.

Alleged Violations of the Act

Complainant submits that, based on the conduct more fully detailed above, Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c), and these provisions of the Act state:

b. No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others;

c. No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family;

N.J.S.A. 18A:12-24(b)

In order to credit a violation of *N.J.S.A.* 18A:12-24(b), Complainant must provide sufficient factual evidence that Respondent used or attempted to use his official position to secure an unwarranted privilege, advantage or employment for himself, members of his immediate family, or "others."

After review, the Commission finds that there are insufficient facts and circumstances presented in the Complaint and the Written Statement to lead a reasonable person to believe that *N.J.S.A.* 18A:12-24(b) was violated in Count 1 and/or Count 2. The Commission notes that Respondent did not vote on the individual's employment, nor was he present during the vote. Complainant has not demonstrated how Respondent used or attempted to use his official position to secure an unwarranted privilege, advantage or employment for the individual when he did not participate in her hiring. The Commission notes, however, that it would be prudent for Respondent not to be involved in the transportation committee given the individual's employment as a transportation

specialist. Additionally, Complainant has also failed to establish how Respondent's vote on the daughter's employment could secure an unwarranted privilege, advantage or employment. Respondent does not have a relationship with the daughter that would prevent him from participating in her hiring. The daughter does not live with Respondent, or even the individual. Without more, simply being the adult child of his significant other does not establish a conflict for Respondent. Accordingly, and pursuant to *N.J.A.C. 6A:28-9.7(b)*, the Commission dismisses the alleged violation(s) of *N.J.S.A. 18A:12-24(b)* in Count 1 and Count 2.

N.J.S.A. 18A:12-24(c)

To credit a violation of *N.J.S.A. 18A:12-24(c)*, Complainant must provide sufficient factual evidence that Respondent acted in his official capacity in a matter where he, or a member of his immediate family, had a direct or indirect financial involvement that might reasonably be expected to impair his objectivity, or in a matter where he had a personal involvement that created some benefit to him, or to a member of his immediate family.

After review, the Commission finds that there are insufficient facts and circumstances presented in the Complaint and the Written Statement to lead a reasonable person to believe that *N.J.S.A. 18A:12-24(c)* was violated in Count 1 and/or Count 2. *N.J.A.C. 6A:28-1.2* defines member of immediate family as "the spouse, civil union partner, or domestic partner of a school official, or a dependent child residing in the same household as the school official." The individual is not married, in a civil union, or in a domestic partnership with Respondent. They do not live together, have joint assets, nor are they financially co-dependent. Further, the daughter is not dependent on the individual or Respondent, as she lives on her own. As such, neither the individual nor her daughter meet the definition of a member of Respondent's immediate family, and the scope of *N.J.S.A. 18A:12-24(c)* is limited to immediate family members. Consequently, and pursuant to *N.J.A.C. 6A:28-9.7(b)*, the Commission dismisses the alleged violation(s) of *N.J.S.A. 18A:12-24(c)* in Count 1 and Count 2.

IV. Decision

In accordance with *N.J.S.A. 18A:12-29(b)*, and for the reasons detailed herein, the Commission hereby notifies Complainant and Respondent that there are insufficient facts and circumstances pled in the Complaint and in the Written Statement to lead a reasonable person to believe that the Act was violated as alleged in the Complaint and, consequently, dismisses the above-captioned matter. *N.J.A.C. 6A:28-9.7(b)*.

The within decision is a final decision of an administrative agency and, therefore, it is appealable only to the Superior Court-Appellate Division. *See, New Jersey Court Rule 2:2-3(a)*. Under *New Jersey Court Rule 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.

Robert W. Bender, Chairperson

Mailing Date: September 24, 2024

***Resolution Adopting Decision
in Connection with C07-24***

Whereas, at its meeting on August 27, 2024, the School Ethics Commission (Commission) considered the Complaint and the Amended Written Statement submitted in connection with the above-referenced matter; and

Whereas, at its meeting on August 27, 2024, the Commission discussed finding that the facts and circumstances presented in the Complaint and the Written Statement would not lead a reasonable person to believe that the Act was violated and, therefore, dismissing the above-captioned matter; and

Whereas, at its meeting on September 24, 2024, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on August 27, 2024; and

Now Therefore Be It Resolved, that the Commission hereby adopts the decision and directs its staff to notify all parties to this action of its decision herein.

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on September 24, 2024.

Brigid C. Martens, Director
School Ethics Commission