

Before the School Ethics Commission
Docket No.: C77-23
Probable Cause Notice

Glenn Arterbridge,
Complainant

v.

Ronn H. Johnson and Alyssa Miller,
Lawnside Board of Education, Camden County,
Respondents

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on October 10, 2023,¹ by Glenn Arterbridge (Complainant), alleging that Ronn H. Johnson, Superintendent of the Lawnside Board of Education (Board), and Alyssa Miller, Director of Curriculum and Instruction for the Board (collectively, Respondents), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* More specifically, the Complaint avers that Respondents violated *N.J.S.A.* 18A:12-24(a), *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24(e), and *N.J.S.A.* 18A:12-24(f).

On November 29, 2023, Respondents filed a Written Statement, and also alleged that the Complaint is frivolous. On December 4, 2023, Complainant filed a response to the allegation of frivolous filing.

The parties were notified by correspondence dated March 19, 2024, that the above-captioned matter would be discussed by the Commission at its meeting on March 26, 2024, in order to make a determination regarding probable cause and the allegation of frivolous filing. Following its discussions on March 26, 2024, and April 30, 2024, the Commission adopted a decision at its meeting on April 30, 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. The Commission also adopted a decision finding the Complaint not frivolous, and denying Respondents' request for sanctions.

¹ On October 10, 2023, Complainant filed a deficient Complaint; however, on October 12, 2023, Complainant cured all defects and filed an Amended Complaint that was deemed compliant with the requirements detailed in *N.J.A.C.* 6A:28-6.3.

II. Summary of the Pleadings

A. *The Complaint*

Complainant alleges that Respondents fraudulently created an Annual School Plan (ASP). Specifically, Complainant alleges that Respondents “falsely documented meetings that never occurred in order to fulfill the [Every Student Succeeds Act (ESSA)] mandate for community involvement, a prerequisite for obtaining federal funding.” Complainant asserts that he and his wife attended a meeting on July 13, 2023, after the submission of the ASP, and “there was no mention made during this meeting that my wife’s and my names had been added to the ASP.” According to Complainant, on July 17, 2023, he and his wife received a copy of the ASP and noticed “significant inaccuracies,” including that the ASP “erroneously indicated” that they attended a meeting on June 29, 2023. Complainant believes that Respondents “intentionally attempted to create confusion by misrepresenting” a meeting that took place on July 13, 2023, as having taken place on June 29, 2023, to make it look like the community involvement took place prior to adopting the ASP on July 10, 2023.

Complainant contends that he and his wife contacted the administration via email, “highlighting the inaccuracies and expressing [their] concerns regarding [their] involvement.” According to Complainant, Respondents reached out on July 19, 2023, and agreed to amend the ASP to remove the names of individuals who were improperly included. Complainant alleges that Respondents “exploit[ed] the good will of volunteers intentionally appending their names to a fraudulent document without their consent or knowledge intended for the acquisition of federal funds,” in violation of *N.J.S.A.* 18A:12-24(a), *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24(e) and *N.J.S.A.* 18A:12-24(f).

B. *Written Statement and Allegation of Frivolous Filing*

Respondents assert that the ASP was formed under the watchful guidance of a representative of the New Jersey Department of Education. Respondents state that there is no evidence that they or any member of their families received a personal benefit from their work on the ASP, nor any evidence that they solicited or accepted a gift or favor. Respondents state that they informed Complainant that they would correct any inaccuracies in the records related to their meeting attendance. Respondents maintain that they did not violate *N.J.S.A.* 18A:12-24(a), *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24(e) and/or *N.J.S.A.* 18A:12-24(f), and also allege that the Complaint is frivolous and an award of sanctions should be levied.

C. *Response to Allegation of Frivolous Filing*

Complainant denies that the Complaint is frivolous, and reasserts that Respondents were required to have stakeholder involvement from the beginning in January 2023, but did not seek stakeholder involvement until June, and therefore, attempted to fake stakeholder involvement with the false attendance records.

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.”

A. 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 federal education laws, the False Claims Act, or committed fraud, 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, Respondents violated *N.J.S.A.* 18A:12-24(a), *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24(e), and *N.J.S.A.* 18A:12-24(f). These provisions of the Act state:

- a. No school official or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest;
- 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;
- e. No school official, or member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or

other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the school official has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the school official in the discharge of his official duties;

f. No school official shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated;

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

To credit a violation of *N.J.S.A. 18A:12-24(a)*, Complainant must provide sufficient factual evidence that Respondents, or a member of their immediate family, have an interest in a business organization, or engaged in any business, transaction, or professional activity which was in substantial conflict with the proper discharge of their duties in the public interest.

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(a)* was violated. Respondents are school administrators, and Complainant fails to allege that they have an interest in any business organization, or what business, transaction or professional activity that they engaged in that is in substantial conflict with their duties. The allegations in the Complaint only involve actions taken in the context of their school employment. 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(a)*.

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 Respondents used or attempted to use their official position to secure an unwarranted privilege, advantage or employment for themselves, members of their immediate family, or "others."

Following its assessment, 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. Although the Commission finds the seemingly inappropriate use of Respondents' official positions to be disconcerting, the Commission is constrained to finding violations of the Act, and it is unclear from the Complaint what unwarranted privilege, advantage or employment Respondents sought to secure from submitting an inaccurate, or allegedly fraudulent, ASP. Therefore, 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)*.

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 Respondents acted in their official capacity in a matter where they, or a member of their immediate family, had a direct or indirect financial involvement that might reasonably be expected to impair their objectivity, or in a matter where they had a personal involvement that created some benefit to them, or to a member of their immediate family.

Based on its 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. The Complaint does not establish that Respondents had a direct or indirect direct financial involvement outside of their employment that could impair their objectivity. The only allegations in the Complaint stem from actions taken in the exercise of their duties as school administrators. Additionally, the Complaint fails to allege how Respondents or members of their immediate family benefitted from submitting an inaccurate, or allegedly fraudulent, ASP. 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)*.

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

To credit a violation of *N.J.S.A. 18A:12-24(e)*, Complainant must provide sufficient factual evidence that Respondents, a member of their immediate family, or a business organization in which they had an interest, solicited or accepted a gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing them, directly or indirectly, in the discharge of his official duties.

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(e)* was violated. The Complaint is devoid of allegations that Respondents solicited or accepted a gift, favor, or other thing of value, let alone that the thing of value was based on an understanding that it was for the purpose of influencing them in the discharge of their duties. Complainant fails to provide any details, such as what thing of value was solicited or accepted, or from whom. 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(e)*.

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

To credit a violation of *N.J.S.A. 18A:12-24(f)*, Complainant must provide sufficient factual evidence that Respondents used their public employment, or any information not generally available to the public, and which they received in the course of and by reason of their employment, for the purpose of securing financial gain for themselves, their business organization, or a member of their immediate family.

Following its assessment, 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(f)* was violated. Complainant fails to establish how Respondents used

their public employment, what information they used, or how they sought to obtain financial gain for themselves, a business, or a family member by submitting an inaccurate, or allegedly fraudulent, ASP. Therefore, 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(f)*.

IV. Request for Sanctions

At its meeting on March 26, 2024, the Commission considered Respondents' request that the Commission find the Complaint frivolous, and impose sanctions pursuant to *N.J.S.A. 18A:12-29(e)*. Despite Respondents' argument, the Commission cannot find evidence that might show that Complainant filed the Complaint in bad faith or solely for the purpose of harassment, delay, or malicious injury. The Commission also does not have information to suggest that Complainant knew or should have known that the Complaint was without any reasonable basis in law or equity, or that it could not be supported by a good faith argument for an extension, modification or reversal of existing law. *N.J.A.C. 6A:28-1.2*. Therefore, at its meeting on April 30, 2024, the Commission adopted a decision finding the Complaint not frivolous, and denying the request for sanctions.

V. Decision

In accordance with *N.J.S.A. 18A:12-29(b)*, and for the reasons detailed herein, the Commission hereby notifies Complainant and Respondents 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 Commission further advises the parties that, following its review, it voted to find that the Complaint is not frivolous, and to deny Respondents' request for sanctions.

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: April 30, 2024

***Resolution Adopting Decision
in Connection with C77-23***

Whereas, at its meetings on March 26, 2024, and April 30, 2024, the School Ethics Commission (Commission) considered the Complaint, the Written Statement and allegation of frivolous filing, and the response to the allegation of frivolous filing submitted in connection with the above-referenced matter; and

Whereas, at its meetings on March 26, 2024, and April 30, 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 meetings on March 26, 2024, and April 30, 2024, the Commission discussed finding the Complaint not frivolous, and denying the request for sanctions; and

Whereas, at its meeting on April 30, 2024, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meetings on March 26, 2024, and April 30, 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 April 30, 2024.

Brigid C. Martens, Director
School Ethics Commission