

IN THE MATTER OF MARTIN GLEASON <i>Bound Brook Board of Education</i> <i>Middlesex County</i>	: : : : : : :	BEFORE THE SCHOOL ETHICS COMMISSION Docket No. C04-97 DECISION
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PROCEDURAL HISTORY

This matter comes before the School Ethics Commission (Commission) by way of complaint filed by James M. Gilrain, Jr. (complainant) against Bound Brook Board of Education member Martin Gleason (respondent or Mr. Gleason) on February 5, 1997. Complainant alleges that Mr. Gleason is violating the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq., by serving on the Bound Brook Board of Education (Board) while he also serves as a volunteer coach for the high school wrestling team. Mr. Gleason filed his answer with the Commission on February 13, 1997. Mr. Gleason denies that his service as a volunteer wrestling coach violates any provision of the Act. By letter filed March 13, 1997, complainant clarified his complaint, stating that he is alleging that Mr Gleason’s service as a volunteer wrestling coach while he also sits on the Board violates N.J.S.A. 18A:12-24(d).

By letter dated July 1, 1997, the Commission advised complainant and respondent that the Commission would be considering the complaint at its July 22, 1997 meeting and that they could appear if they so desired. Complainant and respondent both appeared. Additionally, Mr. Gleason brought Leonard Koupiaris, the high school wrestling coach, to provide information.

FACTS

In his complaint and March 13, 1997 letter, complainant alleges that it is violative of the Act for Mr. Gleason to serve as both a Board member and volunteer wrestling coach. Complainant advised the Commission that he is not alleging that Mr. Gleason acted on any particular matter concerning the wrestling team that came before the Board. Indeed, complainant candidly admitted that he could point to no specific instance in which Mr. Gleason voted or acted on a matter concerning the wrestling team. Rather, complainant is alleging essentially what amounts to an incompatibility of positions argument. It is complainant’s position that respondent simply cannot serve as both a Board member and a volunteer coach.

Respondent admits that he is a Board member and that the Board approved him as a volunteer coach on October 28, 1995. Indeed, at the time of his appointment, complainant was a member of the Board and voted to approve respondent’s appointment. As a volunteer coach, respondent receives no compensation. Mr. Gleason has extensive experience in coaching

wrestlers and in the past had served as a paid assistant for the wrestling team, but he resigned that position when he became a Board member in April, 1995. Mr. Gleason admits that he has contact with students in his capacity as a volunteer wrestling coach, however, he denies that he has any control over the program nor has he ever been the wrestling team's sole representative at any function. Mr. Koupiaris, the head coach, corroborates respondent's assertions. Mr. Koupiaris advised the Commission that he is the head coach and he makes all final decisions concerning the wrestling team. Mr. Koupiaris corroborated Mr. Gleason's contentions that Mr. Koupiaris directs all wrestling coaches, whether paid or volunteer.

Mr. Gleason also states that he has abstained on all matters involving the wrestling team. The Commission has not received any information to suggest that Mr. Gleason has voted on any matter concerning himself or the wrestling program, and, indeed, as discussed above, complainant does not claim that he took any such action.

ANALYSIS

N.J.S.A. 18A:12-24(d) provides, "[n]o school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties." This provision precludes a board member from becoming involved in a situation where the employment or service involved could reasonably be expected to impair the member's objectivity and thereby interfere with his ability to properly discharge his duties as a board member. In this case, Mr. Gleason's duties as a volunteer wrestling coach and a Board member are not such that Mr. Gleason's position as a wrestling coach could be said to prohibit him from properly discharging his duties as a Board member. As a Board member, respondent considers and acts on matters such as curriculum, facilities and teacher appointments. His position as volunteer wrestling coach would not prohibit him from acting on the majority of Board business. Accordingly, it is not appropriate to apply N.J.S.A. 18A:12-24(d) to absolutely prohibit Respondent from serving in both capacities.

Certainly, however, the Act would preclude respondent from acting on specific matters involving or affecting the wrestling program and its participants, including, obviously, himself. Mr. Gleason has represented to the Commission that he recognizes his obligation to abstain on matters involving or affecting the program. The Commission emphasizes that this decision is based on the particular facts of this case.

DECISION

For the foregoing reasons, the Commission finds that there is no probable cause to credit the allegations in the complaint that respondent's position as a Board member while he also serves as a volunteer wrestling coach for the district violates N.J.S.A. 18A:12-24(d). Accordingly, the Commission hereby dismisses the complaint.

Respondent has asked that the Commission find the complaint to be frivolous and impose sanctions in accordance with N.J.S.A. 18A:12-30. The Commission has considered respondent's request for sanctions against complainant and finds that such sanctions would not be appropriate.

The standard for finding a complaint to be frivolous is a high one. In order to find that a complaint is frivolous, the Commission must find on the basis of the pleadings, investigation or other evidence presented that either:

1) The complaint...was commenced, used or continued in bad faith , solely for the purpose of harassment, delay or malicious injury; or

2) The non prevailing party knew, or should have known, that the complaint...was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law. [N.J.S.A. 2A:15-59.1].

The New Jersey Supreme Court has held that the term “frivolous” should be given restrictive interpretation, in light of the premise that in a democratic society, citizens should have ready access to all branches of government. McKeown-Brand v. Trump Castle Hotel and Casino, 132 N.J. 546 (1993). Given the wording of N.J.S.A. 18A:12-24(d) and the fact that this is the first time that the Commission has addressed a complaint concerning a board member’s ability to serve as a volunteer coach, the Commission finds that it was not unreasonable for complainant to perceive that there might be a basis for his complaint. Additionally, in light of the foregoing, the Commission cannot conclude that complainant filed the complaint in an attempt to harass or cause malicious injury to respondent. While the Commission has concluded that there is no probable cause to credit the allegations in the complaint, complainant did raise a new issue that was not unreasonable to raise.

This is a final agency decision which may be appealed directly to the Superior Court, Appellate Division within forty five (45) days.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision -- C04-97

Whereas, the School Ethics Commission has considered the pleadings filed by the parties and the documents submitted in support thereof and has considered the arguments raised by parties in subsequent submissions; and

Whereas, the Commission has found no probable cause to credit the allegations that Martin Gleason violated the School Ethics Act, N.J.S.A. 18A:12-24(d) and therefore dismisses the charges against him; and

Whereas, the Commission has reviewed the proposed decision of its staff; and

Whereas, the Commission agrees with the proposed decision;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision referenced as its decision in this matter and directs its staff to notify all parties to this action of the Commission's decision herein.

Paul C. Garbarini, Chairperson

I hereby certify that the Resolution was
duly adopted by the School Ethics
Commission at its public meeting on
September 23, 1997

Mary E. Torres
Acting Executive Director