
**EVA NAGY, FRED McKENZIE, BARBARA
BANKO, BRIAN BONANNO, PHYLLIS
EXTER, BERNARD SIEGEL, EDDIE WEBB,
JR., AND THE FRANKLIN TWP. BOARD
OF EDUCATION,**

v.

**RENEE MITCHELL-BEST,
FRANKLIN CHARTER SCHOOL,
SOMERSET COUNTY**

:
: **BEFORE THE SCHOOL**
: **ETHICS COMMISSION**
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: **Docket No.: C06-99**
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: **DECISION**
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PROCEDURAL HISTORY

This matter arises from a complaint filed on April 23, 1999 by the Franklin Township Board of Education and individual Board members alleging that the above-named Franklin Charter School headmaster and trustee violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. Specifically, the complainants allege that Renee Mitchell-Best violated N.J.S.A. 18A:12-24(a) by providing the charter school with a \$50,000 loan when she is Headmaster and a member of the board of trustees of the charter school.

Ms. Mitchell-Best filed her answer on May 12, 1999. Therein she admitted the fact that she was Headmaster and trustee, but clarified that she was a non-voting member of the board of trustees. She certified that all of the information set forth in the complaint was made known to the Commissioner of Education when he approved the charter and denied having committed any violation of the School Ethics Act.

The Commission investigated the complaint and sent notices advising the parties that the Commission would discuss the matter at its June 21, 1999 meeting. The Commission invited the parties to attend the meeting. Ms. Mitchell-Best appeared with her husband and testified during the Commission's executive session.

At its public meeting of June 21, 1999, the Commission found no probable cause and dismissed the complaint for the reasons set forth herein.

FACTS

The Commission was able to discern the following facts on the basis of the pleadings, testimony and documents submitted.

Renee Mitchell-Best is Headmaster of the Franklin Charter School, founded under the authority of N.J.S.A. 18A:36A-1 et seq. The Commissioner of Education conditionally approved the charter for Franklin Charter School on January 21, 1998. The Franklin Charter School is currently operating in its start-up phase, with school operations to begin on July 1, 1999. Respondent is to be paid an annual salary for her duties as Headmaster beginning July 1, 1999. As Headmaster, she is a non-voting member of the Board of Trustees.

Respondent's husband agreed to loan \$50,000 to the Franklin Charter School for start-up and operating expenses. The addendum to the application for the charter sets forth:

The principal of the loan is to be repaid monthly, over an eighteen-month term (\$2,777.78 per month) starting in July 1999. Simple interest at the prevailing rate for commercial loans will be accrued, but waived by the lenders and treated as a donation to Franklin Charter School.

Complainants alleges that respondent has violated N.J.S.A. 18A:12-24(a) based on the above facts.

ANALYSIS

The issue before the Commission is whether the above facts establish that Ms. Mitchell-Best violated N.J.S.A. 18A:12-24(a) of the School Ethics Act by lending money to the Board and serving as Headmaster and member of the Board of Trustees. Subsection (a) sets forth:

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.

The Franklin Charter School's application noted clearly that respondent was going to be Headmaster of the school and a non-voting member of the board of trustees. It also made it clear that she and her husband were going to lend the school \$50,000 as start-up money with the interest on the loan to be donated back to the school. The Commissioner of Education conditionally approved the charter school application on January 21, 1998, inclusive of the loan provisions. Even if the Commissioner had not already approved the loan arrangement, the School Ethics Commission would have a difficult time finding that the transaction was in substantial conflict with the proper discharge of respondent's duties in the public interest. By the

terms of the loan, neither respondent nor her husband gains any financial benefit from having given the loan. While the Commission acknowledges that even a non-voting member of a board may have influence over board decisions, the Commission does not see how respondent's views on issues coming before the board will be prejudiced by the fact that she and her husband provided a loan. Similarly, the Commission does not see a substantial conflict being created between the board and the respondent. Certainly, the members may be grateful to her and her husband for providing the start-up money to the charter school, but the loan must be paid off within 18 months as per the provisions of the charter. Thereafter, the board will have no obligation to respondent and her husband. Respondent will then have no greater status and may be treated as a board would treat any other chief school administrator. Therefore, the Commission does not find probable cause to credit the allegation that respondent engaged in any business, transaction or professional activity that is in substantial conflict with the proper discharge of her duties in the public interest in violation of N.J.S.A. 18A:12-24(a).

DECISION

For the foregoing reasons, the Commission finds no probable cause to credit the allegations in the complaint against the respondent and therefore, dismisses the complaint against her.

This decision is a final decision of an administrative agency. Therefore, it is appealable only to the Superior Court--Appellate Division.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision -- C06-99

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

Whereas, the Commission has found no probable cause to credit the allegation that respondent violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. and therefore dismisses the charges against her; and

Whereas the Commission directed its staff to draft this decision; and

Whereas, the Commission's reasoning is set forth in this decision;

Now Therefore Be It Resolved that the Commission 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 School Ethics Commission directed the drafting of this decision at its public meeting on June 21, 1999.

Lisa James-Beavers
Executive Director