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IN THE MATTER	:	BEFORE THE
	:	SCHOOL ETHICS COMMISSION
OF	:	
	:	Docket No.: C09-97
SHERI SCOZZARO,	:	
<i>FAIRFIELD BOARD OF EDUCATION</i>	:	DECISION
<i>ESSEX COUNTY</i>	:	
	:	

PROCEDURAL HISTORY

This matter arises from a complaint filed by Gerald Cohen on April 22, 1997. Therein he alleges that Sheri Scozzaro, a Fairfield Township board member, voted for her daughter to be a substitute teacher in June 1995 and June 1996 in violation of the School Ethics Act, N.J.S.A. 18A:12-21 et seq. Ms. Scozzaro filed her answer with the School Ethics Commission on May 29, 1997, admitting to the votes but denying that they violated the School Ethics Act.

The Commission advised the parties that it would discuss this matter at its meeting of September 23, 1997. At that time, the Commission found probable cause to credit the allegations that Sheri Scozzaro violated N.J.S.A. 18A:12-24(c) of the School Ethics Act when she voted for the appointment of her daughter as a substitute teacher in June 1995 and June 1996. The Commission dismissed the charges under N.J.S.A. 18A:12-24(b) of the School Ethics Act, which requires proof that Ms. Scozzaro used her official position to secure unwarranted employment for her daughter. There was no evidence that the daughter was undeserving of the appointment or unqualified to substitute teach, such that the Commission would consider the employment to be “unwarranted”.

The Commission determined that the material facts of the case were undisputed. Thus, rather than send the case to the Office of Administrative Law, the Commission requested that the respondent file a written statement by October 20, 1997, setting forth why she should not be found in violation of the School Ethics Act as a result of the two votes in question. The Commission received her written statement on October 20, 1997, and considered it in rendering this opinion on November 25, 1997.

FACTS

The Commission found the following facts to be undisputed. Ms. Scozzaro was a Fairfield board member from May 1994 to the present. Complainant Gerald Cohen was a Fairfield board member from May 1994 to April 1997. Ms. Scozzaro has a daughter whom the superintendent placed on a list of five candidates for approval as substitute teachers in February 1995. Ms. Scozzaro abstained from voting on that list. On June 13,

1995, and June 25, 1996, the superintendent again placed the daughter's name on a list of substitutes for approval. Ms. Scozzaro voted in favor of the list approving her daughter to be a substitute teacher for the Fairfield School District in June 1995 and 1996. The board approved both substitute lists by a unanimous vote.

Ms. Scozzaro states in her answer that she was not aware that her daughter's name was included in the substitute teacher list in June 1995 and June 1996 and she did not think to review the lists for inclusion of her daughter's name. Further, she states that the agendas for those dates contained over thirty items and the substitute lists were not part of them. Rather, the lists had been forwarded earlier as part of the Superintendent's packet. She states that if she had known of her daughter's inclusion on those lists, she would have abstained as she had done in February 1995. She adds that she had no reason to believe that her daughter would be on the lists again since she was in college for the summer and the school year. Last, she states that no one, including the complainant, brought these votes to her attention at any time prior to the filing of the complaint.

Ms. Scozzaro adds in her written statement that although her daughter was included on the district's list of substitute teachers, she resided in Maryland where she was a full time student from September 1992 to December 1996. During this time, she only worked as a substitute teacher in Fairfield on two occasions, May 29, 1996 and June 7, 1996. The district's records confirm these dates. Upon graduation, her daughter established residence in Maryland.

ANALYSIS

The issue before the Commission is whether Ms. Scozzaro violated N.J.S.A. 18A:12-24(c) of the School Ethics Act by voting in favor of the substitute lists that included her daughter.

In her written statement, Ms. Scozzaro submits that the Commission should not find her in violation of the Act because she was unaware that her daughter's name was included on the June 1995 and June 1996 substitute lists. She urges the Commission to conclude that hers was not the type of conduct that the Legislature intended to punish. Also, she does not believe that she had a personal involvement that would reasonably be expected to impair her objectivity in voting on the substitute list.

N.J.S.A. 18A:12-24(c) of the School Ethics Act provides:

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 or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment.

The Commission agrees that Ms. Scozzaro's daughter is not a member of Ms. Scozzaro's "immediate family" as defined in N.J.S.A. 18A:12-23 of the School Ethics Act.

However, as set forth in the Commission's prior decision, In the Matter of Matilda Touw, C16-96, a school official is not only prohibited from voting on matters in which her immediate family member has a financial or personal involvement, but on any matter in which **she** has a direct or indirect financial or personal involvement. The Commission also agrees that Ms. Scozzaro did not have a direct or indirect *financial* involvement with her daughter's approval as a substitute. Her daughter was independent and Ms. Scozzaro did not have a financial stake in her approval.

The Commission does find, however, that Ms. Scozzaro had a personal involvement with her daughter's employment as a substitute that might reasonably be expected to impair her objectivity or independence of judgment. Ms. Scozzaro had the ultimate responsibility to know and understand upon what she is voting. The fact that the substitute lists were sent to her before the meeting hurts her argument more than it helps. During the meeting, a board secretary may try to move swiftly through an agenda allowing little time to read names. However, if the substitute lists are sent to her as part of the Superintendent's packet, she has a duty to scrutinize the items therein carefully prior to the meeting. Indeed, that is the purpose of forwarding the lists ahead of time. Her failure to abstain from voting on the substitute lists or to have her daughter considered separately so that she could vote on the substitute lists violated section 24(c) of the Act.

The Commission rejects the argument that her personal involvement was not reasonably expected to impair her objectivity. Clearly, when a board member votes in favor of his or her child's employment, it is the type of vote reasonably expected to impair his or her objectivity. Even where, as here, the board member did not know that her daughter's name was on the list, subsection (c) of the Act views conflicts from the perspective of what the public might reasonably expect, not her subjective intent. Thus, the Commission concludes that respondent voted on a matter in which she had an indirect personal involvement that might reasonably be expected to impair her objectivity or independence of judgment.

CONCLUSION

For all the foregoing reasons, the Commission concludes that Sheri Scozzaro violated N.J.S.A. 18A:12-24(c) of the School Ethics Act when she voted on the lists approving her daughter as a substitute. In doing so, the Commission recommends that the Commissioner of Education impose the lowest sanction of reprimand. In making the recommendation, the Commission has considered the fact that Ms. Scozzaro abstained the first time that her daughter was on the list, which gives credibility to her statement that she would have done so in June 1995 and June 1996 if she had been more diligent. As stated above however, she is responsible to know what she is voting upon, especially when the public could perceive that she is voting on a matter in which she has a personal involvement. Thus, some disciplinary sanction is necessary.

Upon adoption of this decision by a formal resolution of the School Ethics Commission, the matter shall be transmitted to the Commissioner of Education for action on the Commission's recommendation for sanction only pursuant to N.J.S.A. 18A:12-29. Within thirteen (13) days from the date on which the Commission's decision was mailed to the parties, any party may file written comments on the recommended sanction with the Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, NJ 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the School Ethics Commission and all other parties.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision -- C09-97

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

Whereas, the Commission found probable cause to credit the allegations in the complaint and invited respondent to file a written statement in response; and

Whereas, the Commission has reviewed respondent's written statement and now concludes that respondent violated N.J.S.A. 18A:12-24(c) of the School Ethics Act; and

Whereas, the Commission has reviewed the proposed decision of its staff setting forth the reasons for its conclusion; and

Whereas, the Commission agrees with the proposed decision;

Now Therefore Be It Resolved that the Commission hereby finds that Sheri Scozzaro has violated the School Ethics Act and recommends that the Commissioner impose a sanction of reprimand; and

Be it Further Resolved that the Commission adopts the enclosed decision referenced as its decision in this matter.

Paul C. Garbarini, Chairman

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on November 25, 1997.

Lisa James-Beavers
Executive Director

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