IN THE MATTER	:
OF	:
DR. ROY DAWSON, JR. CAMDEN CITY BD OF EDUCATION	:
CAMDEN COUNTY	:

BEFORE THE SCHOOL ETHICS COMMISSION DOCKET #: C22-97 and C25-97 Consolidated

DECISION

PROCEDURAL HISTORY

This matter arises from a complaint filed by Barbara Johnson on July 31, 1997. She alleges that Camden City Superintendent Roy Dawson transferred principals and other administrators in violation of the School Ethics Act, <u>N.J.S.A.</u> 18A:12-21 <u>et seq</u>. Specifically, she alleges that Dr. Dawson covertly moved the administrators without board approval and transferred an elementary principal to a middle school who did not have proper certification and who is his fraternity brother. She alleges that these actions violate <u>N.J.S.A.</u> 18A:12-22 and 18A:12-24(b). On August 15, 1997, Janice Taylor filed a complaint with the School Ethics Commission also alleging that Dr. Dawson violated the School Ethics Act. Specifically, she alleges that Dr. Dawson deceived the public regarding the transfers in violation of <u>N.J.S.A.</u> 18A:12-22a. Further, she alleges that he upgraded an elementary school principal to a middle school when he lacked sufficient experience in violation of <u>N.J.S.A.</u> 18A:12-24(b), (c) and (d). Dr. Dawson filed his answers with the School Ethics Commission on December 12, 1997 and October 14, 1997 respectively, explaining the transfers and denying that he violated the School Ethics Act.

The Commission advised the parties that it would discuss this matter at its meeting of January 27, 1998. Dr. Dawson appeared with counsel Karen Murray, Esq. and Yvonne Catley, Esq. The Commission tabled the matter at that time. The Commission now consolidates these matters for the purpose of rendering a decision since the complaints arise from the same set of facts.

FACTS

The Commission has discerned the following facts from the pleadings, its investigation and the testimony. Dr. Roy Dawson is Superintendent of the Camden City Schools. The Camden school district is currently under Level Two status. As a result of that status, the State Department of Education required that the district undergo a reorganization, the purpose of which was to reallocate resources to their optimum use.

As a result of that requirement, Dr. Dawson submitted to the Board a listing of changed School Level Assignments. According the Board minutes, the Board voted at its

May 6, 1997 meeting to approve school level assignments. On July 31, 1997, the Board held a special meeting at which the assignments were clarified. At this meeting, the individual's name, current position and the assignment to which they were being transferred was provided. One of the transfers was that of complainant Janice Taylor. She was transferred from principal of Hatch Middle School to principal of Powell Elementary School. Also transferred was Calvin Gunning. He was moved from principal of Whittier Elementary School to principal of Hatch Middle School. Mr. Gunning was principal at Whittier for one year before the transfer. Prior to that time, he served as an assistant to the principal for several years. Mr. Gunning held a Certificate of Eligibility, issued in July 1996, which allowed him to serve in the position of middle school principal while in the residency mentoring program to be certified for his provisional certificate. The County Superintendent renewed his certificate in December 1997.

Dr. Dawson and Mr. Gunning belong to the same national fraternity, Kappa Alpha Psi, Inc. It consists of college students and graduate members. However, neither is an active member of that fraternity.

ANALYSIS

The issue before the Commission is whether Dr. Dawson violated <u>N.J.S.A.</u> 18A:12-22 or <u>N.J.S.A.</u> 18A:12-24 (b), (c) or (d) of the School Ethics Act by transferring Ms. Taylor and Mr. Gunning, along with the others. The School Ethics Commission has previously ruled that it cannot find a violation of the School Ethics Act based solely upon <u>N.J.S.A.</u> 18A:12-22. This section sets forth the Legislature's findings and declarations. It does not set forth conduct that is prohibited under the Act. For that, the Commission must look to <u>N.J.S.A.</u> 18A:12-24.

<u>N.J.S.A.</u> 18A:12-24(b) prohibits a school official from using his position to secure unwarranted privileges, advantages or employment for himself or others. The Commission has stated that if a school official had a role in getting a person employment, it must determine whether that person's employment was "unwarranted," that is, whether the person was undeserving of the employment. The Commission notes from the above facts that Mr. Gunning had the qualifications to serve as principal of Hatch Middle School. He held a Certificate of Eligibility and had recommendations from his supervisor indicating that he would make an excellent middle school principal. All of the transfers, including that of Mr. Gunning, were approved by the Board. There is nothing to indicate that Mr. Gunning received any special favors or treatment. Therefore, the Commission finds no probable cause to credit the allegations that Dr. Dawson used his position to secure unwarranted privileges for Mr. Gunning in violation of section 24(b).

<u>N.J.S.A.</u> 18A:12-24(c) prohibits a school official from acting in his official capacity in a matter in which he has a direct or indirect personal or financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. The complainants' only claim that Dr. Dawson had a personal or financial involvement with Mr. Gunning such that he should have removed himself from the process is that the

two men are fraternity brothers. The Commission does not discern why that relationship would reasonably be expected to impair Dr. Dawson's objectivity or independence of judgment. Therefore, the Commission finds no probable cause to credit the allegations that Dr. Dawson acted in his official capacity in a matter in which he had a personal involvement in violation of section 24(c).

Janice Taylor also argues that respondent violated <u>N.J.S.A.</u> 18A:12-24(d). This subsection prohibits a school official from undertaking 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. Subsection d refers to the undertaking of other employment or services outside a school official's normal duties. It does not apply to a person acting in his official duties, as Dr. Dawson did when he set forth the reorganization plan. Thus, subsection d does not apply to this case and the Commission finds no probable cause to credit the allegations that Dr. Dawson violated subsection d.

CONCLUSION

For all the foregoing reasons, the Commission finds no probable cause to credit the allegations that Roy Dawson violated <u>N.J.S.A.</u> 18A:12-22 or 18A:12-24(b),(c) or (d) of the School Ethics Act when he transferred principals and other administrators in connection with a district-wide reorganization. The Commission therefore dismisses the two complaints against him.

This decision constitutes final agency action and thus may be appealed directly to the Appellate Division of the Superior Court.

Paul C. Garbarini Chairperson

Resolution Adopting Decision -- C22-97 and C25-97

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 no probable cause to credit the allegations in the complaint that respondent violated <u>N.J.S.A.</u> 18A:12-22 or <u>N.J.S.A.</u> 18A:12-24(b), (c) or (d) 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 dismisses the complaint against Dr. Roy Dawson; 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 March 30, 1998.

Lisa James-Beavers Executive Director

[c222597/c:lisajb/decisions]