IN THE MATTER OF	
EDMUND J. ZILINSKI BLOOMFIELD BOARD OF EDUCATION ESSEX COUNTY	

**BEFORE THE SCHOOL ETHICS COMMISSION** 

Docket No. C20-05

**DECISION** 

#### **PROCEDURAL HISTORY**

This matter arises from a complaint filed on April 18, 2005 by Barbara Francisco against Edmund J. Zilinski, a member of the Bloomfield Board of Education (Board), alleging that Mr. Zilinski violated <u>N.J.S.A.</u> 18A:12-24.1(a), (e) and (g) of the Code of Ethics for School Board Members in the Act when he sent an e-mail on April 4, 2005 to members of the Board with an attachment that contained confidential information listing the names of students suspended from October to November 2004. Mr. Zilinski submitted a timely answer in which he admitted sending the April 4, 2005 e-mail, but maintained that it was accidentally sent and that four minutes after it was sent he sent another e-mail with the correct attachment.

:

:

:

The Commission invited Mr. Zilinski to attend its July 26, 2005 meeting to present witnesses and testimony, but did not require that he be present. Neither Mr. Zilinski nor the complainant attended the hearing. Instead, on July 22, 2005, the complainant submitted a response to Mr. Zilinski's answer, and on July 23, 2005, Mr. Zilinski replied to complainant's response. At its July 26, 2005 meeting, the Commission voted to find probable cause to credit the allegations that Mr. Zilinski violated <u>N.J.S.A.</u> 18A:12-24.1(e) and (g) of the Code of Ethics for School Board Members in the School Ethics Act. The Commission also voted to find no probable cause that Mr. Zilinsky violated <u>N.J.S.A.</u> 18A:12-24.1(a). At its August 23, 2005 meeting the Commission adopted its decision finding probable cause.

The Commission found that the material facts were not in dispute with respect to the issue upon which it found probable cause and, therefore, advised Mr. Zilinski that it would decide the matter on the basis of written submissions. Mr. Zilinski was invited to provide a written submission to the Commission by September 12, 2005, and set forth why the Commission should not find him in violation of <u>N.J.S.A.</u> 18A:12-24.1(e) and (g) of the Code of Ethics for School Board Members. Mr. Zilinski was also told that his written submission should include his position on an appropriate sanction should the Commission determine that the Act was violated. Mr. Zilinski filed a timely response to the Commission's probable cause decision. In his response, Mr. Zilinski again admitted that he sent the April 4, 2005 e-mail with an attachment that contained the names of students suspended from October to November 2004, but he argued that his private action did not compromise the Board and that his release of confidential information to Board

members did not needlessly injure individuals or the schools. Mr. Zilinsky indicated that should the Commission find him in violation of the Act, he should only be reprimanded since he inadvertently sent the e-mail and then four minutes later sent the correct file.

# FACTS

The Commission based its finding of probable cause on the following facts.

At the time of the allegations in this complaint, Mr. Zilinski and the complainant were members of the Board. The complainant was the Board President at the time Mr. Zilinski sent the e-mail and she recently retired from the Board after being on it for 12 years. Mr. Zilinski is now Board President. Board policy 8330 establishes the process for obtaining and disseminating pupil record information.

In early November, Mr. Zilinski received two anonymous letters regarding student suspensions for dress code violations. He arranged the information from the letter in an Excel spreadsheet so he could better understand it. The Excel spread sheet included the names of the students who were suspended from October to November 2004, the number of days they were suspended, the type of suspension and a reason if the suspension was for a violation of the dress code. Mr. Zilinski named the file "suspensions." After Mr. Zilinski organized the information and reviewed it, he came to the conclusion that it was useless. He made a decision not to turn the information over to the Board President because of a previous negative experience that the Board President had with the administration regarding an anonymous letter. Mr. Zilinski mentioned the letters to a couple of other Board members and they agreed that he should just let the issue die.

On April 3, 2005, Mr. Zilinski found an article in the Star Ledger reporting on how some districts use community service in lieu of out-of-school suspension. He wanted to share this information with the Board so he scanned the article into his computer and named the file "suspensions." On April 4, 2005 at 2:41 p.m., Mr. Zilinski sent an e-mail to the Board and copied himself. The e-mail included an attachment named "suspensions." When Mr. Zilinski reviewed the attachment in the e-mail that had already been sent, he realized that he had mistakenly sent the Excel spread sheet, which contained information regarding the students that had been suspended from October to November 2004. At 2:45 p.m. on April 4, 2005, Mr. Zilinski sent the Board another email with an attachment named "suspensions" that was the Star Ledger article. In the email he said, "Sorry, sent wrong file on previous..... this is the Star Ledger article."

### ANALYSIS

The Commission found probable cause that Mr. Zilinski violated <u>N.J.S.A.</u> 18A:12-24.1(e) when he sent the e-mail to all Board members on April 4, 2005 with an attachment that contained the names of students suspended from October to November 2004. <u>N.J.S.A.</u> 18A:12-24.1(e) provides:

I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

Mr. Zilinski received the information regarding the students through two anonymous letters and organized it in an Excel spread sheet to make sense of it and then accidentally sent it as an e-mail attachment to the Board. Four minutes after that, he emailed the Board with the correct attachment notifying them that the first attachment was Mr. Zilinski did not go to either the Board President or the the wrong file. Superintendent after he had received the two anonymous letters. In his response to the Commission's probable cause decision, he argued that his action did not compromise the Board because only Board members received the e-mail with the confidential information. He also contended that the Board members would otherwise be entitled to the information. However, Board policy 8330 restricts access to pupil records to the pupil's parent or legal guardian, and the Board is permitted access only through the Superintendent. Therefore, the Board would not have been entitled to the confidential information in the e-mail. The Commission also notes that Mr. Zilinski could have inadvertently sent the file containing the confidential information to anyone. His children or spouse could have also accessed the file with the confidential information. The Commission finds that the Board may have been compromised when Mr. Zilinski's inadvertently sent the April 4, 2005 e-mail. Therefore, the Commission finds Mr. Zilinski violated N.J.S.A. 18A:12-24.1(e) when he took private action in organizing confidential information containing the names of students in an Excel spreadsheet, which he accidentally sent to the entire Board as an attachment to his e-mail on April 4, 2005.

The Commission also found probable cause that Mr. Zilinski violated <u>N.J.S.A.</u> 18A:12-24.1(g) when he sent the e-mail to all Board members on April 4, 2005 with an attachment that contained the names of students suspended from October to November 2004.<u>N.J.S.A.</u> 18A:12-24.1(g) provides:

I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

The April 4, 2005 e-mail contained confidential information regarding students including their names and the reason they were suspended if that suspension was due to a violation of the dress code. In his response to the probable cause decision, Mr. Zilinski argued that his e-mail did not result in injury and could not result in injury. However, the Commission again notes that Mr. Zilinsky's children and spouse could have accessed the file with the confidential information and those he sent it to could have inadvertently sent it to anyone. The Commission further notes that Mr. Zilinsky could have used initials rather than full names when he organized the information into an excel spreadsheet. Therefore, the Commission finds that Mr. Zilinsky violated N.J.S.A. 18A:12-24.1(g)

when he failed to hold confidential the names of students who had been suspended during October and November 2004.

# DECISION

For the reasons discussed above, the Commission finds that Edmund J. Zilinski violated <u>N.J.S.A.</u> 18A:12-24.1(e) and (g) of the Code of Ethics for School Board Members in the Act. The Commission recommends that the Commissioner of Education impose a penalty of reprimand since Mr. Zilinski immediately advised the Board members that he had sent the wrong attachment.

This decision has been adopted by a formal resolution of the School Ethics Commission. This matter shall now be transmitted to the Commissioner of Education for action on the Commission's recommendation **for sanction only**, pursuant to <u>N.J.S.A.</u> 18A:12-29. Within 13 days from the date on which the Commission's decision was mailed to the parties, Mr. Zilinski 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 – C20-05**

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

**Whereas**, at its meeting of September 27, 2005, the Commission found that Edmund J. Zilinski violated <u>N.J.S.A.</u> 18A:12-24.1(e) and (g) of the Code of Ethics for School Board Members in the Act and recommended that the Commissioner of Education impose a sanction of reprimand; and

**Whereas**, at its meeting of October 25, 2005, the Commission reviewed a draft decision prepared by its staff and agrees with the 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 October 25, 2005.

Lisa James-Beavers Executive Director

PCG/LJB/MET/ethics/decisions/C20-05