
**IN THE MATTER OF
ALEXANDER SIPOS,**

***GARFIELD BOARD OF EDUCATION,
BERGEN COUNTY***

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**BEFORE THE
SCHOOL ETHICS COMMISSION**

Docket No.: C20-99

DECISION

PROCEDURAL HISTORY

The above matter arises from a complaint filed by Sheila Kelly on August 23, 1999 alleging that respondent Alexander Sipos violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. Specifically, Mrs. Kelly alleged that the Board hired Mr. Sipos' wife and brother. She also alleged that Mr. Sipos made the motion to hire his wife twice, once as secretary to the high school principal and, six months later, as child study team secretary, resulting in a large raise for Mrs. Sipos. The complainant further alleged that Mr. Sipos' actions violated N.J.S.A. 18A:12-22(a) and N.J.S.A. 18A:12-24(b). On October 12, 1999, Mrs. Kelly amended her complaint to include an allegation that the Board had hired Mr. Sipos' daughter and an employee of Meltzer's Sporting Goods, where Mr. Sipos works as a manager. The Commission found probable cause that Mr. Sipos violated N.J.S.A. 18A:12-24(c) when he made two motions to pass resolutions that resulted in the appointment of his wife to two positions with the Board. It did not find probable cause regarding the remaining allegations. The Commission found that there were no material facts in dispute and requested that respondent file a written statement as to whether the conduct constitutes a violation of the Act. The Commission now finds that Mr. Sipos violated N.J.S.A. 18A:12-24(c) and recommends a penalty of censure.

Mr. Sipos filed his answer on September 24, 1999 stating that he made the motion on all the personnel appointments because it was his duty as chairperson of the Personnel Committee. He denied having violated the School Ethics Act. Mr. Sipos' response to the amended complaint was that his daughter was appointed to her position with the Board a year before he became a member in April 1997. He denied that he has any relationship with the current employee of Meltzer's that would create a conflict of interest under the Act.

The Commission invited the parties to testify at its February 22, 2000 meeting. Mr. Sipos appeared with his attorney, Toni Belford Damiano, Esq. Mrs. Kelly appeared pro se. After hearing testimony, the Commission tabled the matter. At its March 28, 2000 meeting, the Commission voted to find probable cause that Mr. Sipos violated N.J.S.A. 18A:12-24(c) by making the motions to hire his spouse. Ms. Damiano submitted a timely written statement on behalf of Mr. Sipos in response to the Commission's determination. Mrs. Kelly also submitted a written statement, but it was not in time to be considered by the Commission.

FACTS

The Commission finds the following facts to be undisputed.

Mr. Sipos was elected to the Garfield Board of Education in April 1997. He is a thirteen year resident of Garfield. When the 1998-99 Board held its reorganization meeting, it decided that individual committees that had been formed would have the responsibility of moving their committee's resolutions, via the chairperson, before the Board. According to Mr. Sipos, this meant that each specific committee would discuss its particular business at a committee meeting scheduled prior to the regularly scheduled Board meeting. At all times relevant to this complaint, Mr. Sipos was the appointed chair of the Personnel Committee. As such, he was to present to the Board resolutions to be acted upon involving personnel.

On July 21, 1998, Mr. Sipos' wife was appointed to the position of eleven-month high school secretary at a salary of \$26,529.33 effective August 1, 1998. Mr. Sipos made the motion to pass the personnel committee resolutions that included her appointment. The vote was eight ayes and one "excused" which was Mr. Sipos. At the January 19, 1999 meeting of the Board, Mrs. Sipos was appointed to the position of twelve-month child study team secretary at a salary of \$33,893.12 effective January 20, 1999. Mr. Sipos again made the motion to pass the personnel committee resolutions that included the appointment of Mrs. Sipos. The vote was five ayes, one "excused" (Mr. Sipos) and three absent. Mrs. Sipos' salary thus increased by \$7,364.00 or 27.7%.

Although he was Chairperson of the Personnel Committee, there is no information to indicate that Mr. Sipos participated in discussions or involved himself with the decision to hire his wife. He either did not attend meetings at which the positions were discussed or stepped out of the room during those particular discussions. Mr. Sipos did not participate in interviews with the applicants for the positions that his wife obtained and did not discuss the qualifications of his wife for the appointments that she received.

Counsel for Mr. Sipos agrees with the facts set forth above, except that Mr. Sipos wishes to stress that he moved the resolutions of the Personnel Committee en masse and excused himself from the vote. Therefore, he did not believe that he violated the Act.

ANALYSIS

The Commission found probable cause on the charge that Mr. Sipos' conduct when he made two motions to pass resolutions that resulted in the appointment of his wife to two positions with the Board violated N.J.S.A. 18A:12-24(c). It provides:

No school official shall act in his official capacity in any matter in which he, a member of his immediate family, or a business organization in which he holds an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family.

Mr. Sipos argues that because the Commission found that he did not use his position to secure unwarranted privileges for his wife in violation of N.J.S.A. 18A:12-24(b), it must similarly find that he did not violate N.J.S.A. 18A:12-24(c). The Commission disagrees.

N.J.S.A. 18A:12-24(c) prohibits acting in one's official capacity in any matter in which he or his spouse has a financial involvement that might reasonably be expected to impair his objectivity. There is no question that Mr. Sipos and his wife had a financial involvement in the two positions to which his wife was appointed. Clearly, the employment of one's spouse is a matter that might reasonably be expected to impair one's objectivity. Therefore, the only question remaining is whether Mr. Sipos acted in his official capacity. Making a motion that places a matter before the board for its vote is the way board business is conducted. Without the initial motion, no business takes place. Therefore, Mr. Sipos' moving the resolutions to hire his spouse on two instances was clearly acting in his official capacity. Pursuant to the Act, it is of no moment that he moved all the personnel committee recommendations or that he moved them en masse. The only question is whether Mr. Sipos acted in his official capacity, which he clearly did.

The Commission rejects the argument that it has to find that Mr. Sipos was trying to secure unwarranted privileges or employment for his wife in order to find a violation of N.J.S.A. 18A:12-24(c). The two provisions are separate and require different evidence. N.J.S.A. 18A:12-24(c) does not require that the Commission show that a school official acted with a motive to secure employment for someone who does not deserve it. Rather, subsection c requires only a showing that the school official took official action as a Board member in a matter in which he had a financial involvement in which his objectivity may be impaired. The Commission finds that Mr. Sipos took such action.

In finding a violation of N.J.S.A. 18A:12-24(c), the Commission is also mindful of the Legislature's purpose set forth at N.J.S.A. 18A:12-22(a), which provides:

In our representative form of government it is essential that the conduct of members of local boards of education and local school administrators hold the respect and confidence of the people. These board members and administrators must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

In this case, the Commission is concerned that Mr. Sipos actions created a justifiable impression that the public trust was violated. Here, Mr. Sipos became a board member in April 1997, became Chair of the Personnel Committee and then moved the resolution to appoint his wife in July 1998. The fact that the personnel committee resolutions were moved en masse contributes to the public's feeling that the Board is attempting to limit the amount of information that it receives. The public would have a justifiable impression that Mr. Sipos was involved with the appointment of his wife when he serves as Chair of the Personnel Committee and then places the appointments before the Board for their consideration. While the Commission does not find a violation solely on N.J.S.A. 18A:12-22(a), the Commission believes that its conclusion that Mr. Sipos violated the N.J.S.A. 18A:12-24(c) of the Act is more than adequately supported by the Legislature's stated purpose.

DECISION

For the foregoing reasons, the Commission finds that respondent Alexander Sipos violated N.J.S.A. 18A:12-24(c) of the School Ethics Act. It now recommends that the Commissioner of Education impose a penalty of censure.

In determining the penalty to recommend to the Commissioner of Education, the Commission considered that Mr. Sipos had been serving on the Board for more than a year at the time he made the motion, therefore he should have attended new board member training by that time. Nevertheless, the Commission finds it credible that he did not know that he would violate the Act by moving the Personnel Committee recommendations that included his wife since he abstained from the votes. Therefore, the Commission finds that the appropriate penalty that suits the offense, but informs Mr. Sipos and the other board members that they must not act in their official capacity in any manner concerning matters involving the hiring of their family members, is a censure.

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 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, the respondent 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 Mrs. Kelly.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision -- C20-99

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 testimony; and

Whereas, the Commission found probable cause to credit the allegations in the complaint that respondent violated N.J.S.A. 18A:12-24(c) of the School Ethics Act; and

Whereas, the Commission has reviewed the written statement of the respondent setting forth the reasons that he should not be found in violation of the Act; and

Whereas, the Commission finds that Mr. Sipos violated the Act;

Now Therefore Be It Resolved that the Commission finds that Alexander Sipos violated N.J.S.A. 18A:12-24(c) of the School Ethics Act, recommends that the Commissioner of Education impose a penalty of censure and adopts this decision as its decision in this matter.

Paul C. Garbarini, Chairman

I hereby certify that this decision was duly adopted by the School Ethics Commission at its public meeting on May 23, 2000.

Lisa James-Beavers
Executive Director