

JAMES THOMAS	:	BEFORE THE SCHOOL
		ETHICS COMMISSION
v.	:	
	:	
MELISSA RODRIGUEZ, JANITA	:	Docket No. C57-06
HUTCHINSON, STEPHEN COOPER,	:	
HAROLD HARRIS and LISA	:	DECISION
FELICIANO	:	
WOODBINE BOARD OF EDUCATION	:	
CAPE MAY COUNTY	:	

PROCEDURAL HISTORY

This matter arises from a complaint filed on November 16, 2006 by James Thomas alleging that Melissa Rodriguez, President of the Woodbine Board of Education (Board), Janita Hutchinson, Stephen Cooper, Harold Harris and Lisa Feliciano, all members of the Woodbine Board of Education (Board) violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. Complainant specifically alleges that the respondents violated N.J.S.A. 18A:12-24.1(f) of the Code of Ethics for School Board Members when they selected Linda Anderson Towns to be the new superintendent, because the complainants either work either directly or indirectly under the supervision of the Ms. Towns' brother. After an extension of the time to file an answer and for good cause shown, the respondents filed an answer through their attorney, Damon G. Tyner, Esquire, wherein they denied that they violated the Act, argued that the New Jersey School Boards Association (NJSBA) conducted a lengthy search process and that the Board invoked the Doctrine of Necessity when they hired the superintendent because seven of the nine Board members worked either directly or indirectly under the supervision of the superintendent candidate's brother.

The School Commission (Commission) invited, but did not require, the parties to attend its May 22, 2007 meeting. The parties were advised of their right to bring counsel and witnesses. The complainant was advised that, pursuant to N.J.S.A. 18A:12-29(b), he had the burden of proving violations of the Code of Ethics for School Board Members. Complainant attended the hearing and testified before the Commission. Complainant's witness Harry Ciabatoni, a member of the Board, also testified. Respondents Ms. Rodriguez and Ms. Feliciano, attended the hearing with their attorney Mr. Tyner, and testified before the Commission. During the public portion of that meeting, the Commission voted to find that the respondent did not violate N.J.S.A. 18A:12-24.1(f) of the Code of Ethics for School Board Members and dismissed the complaint.

FACTS

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

At all times relevant to the complaint, all of the respondents were members of the Board and Ms. Rodriguez was President of the Board. Also, at all times relevant to the complaint, all of the respondents were employed at the Woodbine Developmental Center. Ms. Towns was the candidate for superintendent who was hired to fill the position. Ms. Towns' brother is in a supervisory position at the Woodbine Developmental Center. He is second in command to the Chief Executive Officer (CEO). Ms. Rodriguez, who is employed as an Administrative Analyst at the Woodbine Developmental Center, reports to the CEO and Ms. Towns' brother. Ms. Rodriguez testified that she met Ms. Towns once at a wedding.

Robert E. B. Manning was the Superintendent pursuant to a three year contract from 2003 through 2006. On or before June 30, 2005, the Board decided to give Mr. Manning written notice that his contract would not be renewed. A petition was filed with the Board and signed by many parents and community members requesting the Board to retain Mr. Manning as Superintendent.

The Board contracted with the NJSBA to assist it with the search process for a new superintendent. The process was carried out over seven months. Part of the process included a meeting with the community to determine what the community wanted in a superintendent. The NJSBA and the Board attorney advised the Board that the search process was confidential until a candidate was selected. Under the coordination of the NJSBA, the Board advertised in several professional publications and newspapers. The Board received 31 requests for applications including one from Mr. Manning. Of the 31 requests, 16 individuals completed the application. After a review of the resumes and references of the initial candidates, the Board eliminated six of the candidates. Of the 10 remaining candidates, the Board interviewed six and both Ms. Towns and Mr. Manning were among the six candidates that were interviewed. The Board then focused on three candidates, which included Ms. Towns and Mr. Manning. The Board, with the assistance of the NJEA, then determined that Ms. Towns best fit the criteria established by the Board for its new superintendent.

During the process, Board member, Harry Ciabaton, asked the Board to request an advisory opinion from the Commission because seven of the nine Board members worked for the Woodbine Developmental Center where the candidate Ms. Towns' brother worked in a supervisory capacity, second only to the CEO. However, the Board decided not to seek an advisory opinion. Following the advice of the Board attorney, the Board invoked the Doctrine of Necessity so it could vote to hire Ms. Towns for the superintendent position.

ANALYSIS

The Commission notes that, pursuant to N.J.S.A. 18A:12-29, the complainant bears the burden of factually proving any violations of the Code of Ethics for School Board Members. The complainant alleges that the respondents violated N.J.S.A. 18A:12-24.1(f) of the Code of Ethics for School Board Members when they hired Ms. Towns as superintendent. N.J.S.A. 18A:12-24.1(f) provides.

I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

The complainant maintains that the superintendent search and selection process was a fraud because Ms. Towns had already been earmarked for the position of superintendent. He argues that the Board wasted \$8,000 on the search process. To prove a violation of N.J.S.A. 18A:12-24.1(f), the complainant maintains that all of the respondents used the schools for the personal gain of Ms. Towns' brother who is second in command at the Woodbine Developmental Center where all of the respondents work. However, the Commission notes that the Board contracted with the NJSBA, which assisted the Board and coordinated an extensive search and selection process for a new superintendent. The Commission can find no evidence to show that the Board had chosen to hire Ms. Towns prior to its contracting the NJSBA. There is also no evidence to show that the respondents voted to hire Ms. Towns in order to benefit Ms. Towns' brother. The Commission notes that the complainants all worked for the Woodbine Developmental Center where Ms. Towns' brother was second in command. However, even if a conflict existed, the Board invoked the Doctrine of Necessity, and this enabled the Board to vote on the hiring of Ms. Towns. Based on the foregoing, the Commission finds that the respondents did not violate N.J.S.A. 18A:12-24.1(f) in the search process and in the hiring of Ms. Towns as superintendent.

DECISION

For the reasons expressed above, the Commission finds that the respondents did not violate the School Ethics Act and dismisses the allegations against them.

This decision is a final decision of an administrative agency. Therefore, it is appealable only to the Superior Court--Appellate Division. See, New Jersey Court Rule 2:2-3(a).

Paul C. Garbarini
Chairperson

Resolution Adopting Decision – C57-06

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

Whereas, the Commission finds that the respondents did not violate N.J.S.A. 18A:12-21 et seq.; and

Whereas, the Commission has reviewed the proposed decision of its staff dismissing the complaint; and

Whereas, the Commission agrees with the proposed decision;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision to dismiss as its final 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 June 26, 2007.

Mary E. Torres
Acting Executive Director