

SUSAN R. GORMAN and	:	BEFORE THE SCHOOL
RALPH SPLENDORIO	:	ETHICS COMMISSION
	:	
v.	:	
	:	Docket No. C27-06
SCOTT SARNO	:	
BARNEGAT BOARD OF EDUCATION	:	DECISION
OCEAN COUNTY	:	
	:	

This matter arises from a complaint filed on July 26, 2006, by Susan R. Gorman alleging that Scott Sarno, a member of the Barnegat Board of Education, violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 *et seq.* By subsequent letter, Ms. Gorman amended her complaint to add Ralph Splendorio as a complainant. Complainants specifically allege that respondent misrepresented himself as a member of the local Parent Teacher Association for the purpose of obtaining a seat on the Barnegat Board of Education.

On July 17, 2006, the Commission notified Ms. Gorman that she would have to amend her complaint because she had not set forth which provisions of the Act she was alleging that Mr. Sarno violated. On July 31, 2006, the Commission received an amended complaint wherein Ms. Gorman set forth that she alleges that respondent violated N.J.S.A. 18A:12-24.1(a), (c), (e), (f) and (g) of the Code of Ethics for School Board Members.

The respondent filed a response on August 10, 2006, arguing that the complaint was without merit because he was not a board member at the time of the conduct alleged in the complaint and therefore, he was not a school official subject to the jurisdiction of the School Ethics Commission. The respondent also asked the Commission to find that the complaint is frivolous pursuant to N.J.S.A. 18A:12-29. Because the answer was unsigned and respondent made a legal argument rather than a response to the factual allegations, the Commission advised the parties that it would consider respondent's letter as a motion to dismiss and provided the complainant with an opportunity to respond. The Commission received a response from Ms. Gorman on August 31, 2006 arguing that Mr. Sarno had been a board member prior to the conduct alleged and that he became a board member just after the alleged conduct. Therefore, she urges the Commission to find him to be a school official when he was a candidate for the board and find him in violation of the Act.

The Commission discussed this matter at its meeting on September 26, 2006. After considering the arguments made by both parties, the Commission agrees with the respondent that under the definition of "board member" at N.J.S.A. 18A:12-23, neither a candidate for the board nor a former member of the board is a "board member" for purposes of the Act and the Code of Ethics for Board Members. The Commission noted that the complaint alleged violations of the Code of Ethics for School Board Members only in connection with conduct that occurred at a time when Mr. Sarno was not serving

as a board member. The Commission concluded that it did not have jurisdiction over Mr. Sarno at the time of the conduct alleged in the complaint because he was not a school official at that time. The Commission therefore, granted the motion to dismiss the complaint. Because the Commission reached this conclusion, it did not discuss the merits of the complaint.

REQUEST FOR SANCTIONS

The Commission considered the respondent's request to find that the complaint was frivolous and impose sanctions pursuant to N.J.S.A. 18A:12-29 at its October 24, 2006 meeting in connection with adopting a decision. In order to find that a complaint, counterclaim, cross-claim or defense of the nonprevailing party was frivolous, the Commission must find on the basis of the pleadings, discovery, or the evidence presented that either:

- 1) The complaint...was commenced, used or continued in bad faith, solely for the purpose of harassment, delay or malicious injury; or
- 2) The nonprevailing party knew, or should have known, that the complaint...was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law. [N.J.S.A. 2A:15-59.1]

The respondent argues that Ms. Gorman's complaint was politically motivated and that the charges were filed to smear his name. He argues that she told many people that she filed charges against him. However, as Ms. Gorman argues, respondent was not a candidate when the complaint was filed, so it is difficult to support a finding that the complaint was politically motivated. Further, because respondent had been a board member prior to the conduct alleged and successfully ran for the board following the conduct alleged, the Commission finds that Ms. Gorman had reasonable basis to believe that respondent's actions were subject to the Code of Ethics. Therefore, the Commission does not find the complaint to be frivolous and declines to impose sanctions.

This decision dismissing the complaint 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 – C27-06

Whereas, the School Ethics Commission has considered the pleading and documents submitted; and

Whereas, the Commission hereby dismisses the complaint; 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 the complaint 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 October 24, 2006.

Lisa James-Beavers
Executive Director

PCG/LJB/e:lisa/decisions/c27-06