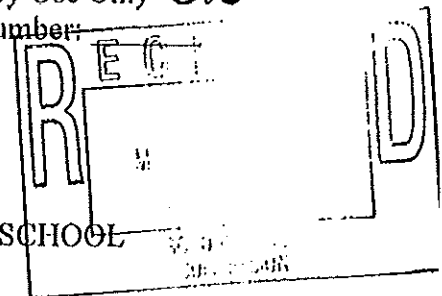


For Agency Use Only **C18-12**
Docket Number: _____



NAME OF :
 COMPLAINANT(S), Janine Walker Caffrey : BEFORE THE SCHOOL
 v. : ETHICS COMMISSION
 OF NEW JERSEY
 NAME OF RESPONDENT(S) : SCHOOL ETHICS ACT
 Samuel Lebreault : COMPLAINT FORM

AMENDED COMPLAINT – MAY 22, 2012

I, (Janine Walker Caffrey residing at [REDACTED]) request the School Ethics Commission to consider a complaint against the above-named Respondent(s) whose home address is [REDACTED] in accordance with the authority of the School Ethics Commission to entertain such complaints under N.J.S.A. 18A:12-21 et seq.

The facts upon which this complaint is based are as follows: *(Please print additional pages as needed. Students should be identified by initials only.)*

1. Statement of facts:

Mr. Lebreault, President of the Perth Amboy Board of Education has requested the complainant (superintendent of schools) to enter into a separation agreement with the Board of Education. He created a list of eleven petty, false charges and relayed them to the personnel committee of the Board of Education. This committee met secretly with the Board attorney, Isabel Machado, without providing notice through the Board Secretary's office. At least two other Board members were completely unaware this meeting was taking place. If the complainant refuses to enter into a separation agreement, it is the Board's intention, under Mr. Lebreault's leadership, to place the complainant on administrative leave and move toward termination. Mr. Lebreault emailed the Board secretary on April 17th and requested a special meeting of the full board take place April 25th, 2012. Mr. Lebreault requested an alternate venue for this special meeting, which only seats a few people, in an effort to suppress public participation. It is the complainant's belief that this action is occurring due to her refusal to yield to his pressure to hire his friends, her cooperation in an investigation by the Attorney General's office regarding school lunch applications, and his exclusion from a meeting with the Mayor of Perth Amboy and the head of the School Development Authority.

Date of occurrence: April 15, 2012.

I assert this to be a violation of: (1) N.J.S.A. 18A:12-24.1(e) (I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.); (2) N.J.S.A. 18A:12-24.1(d) (I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.); (3) N.J.S.A. 18A:12-24.1(g) (. . . I will provide

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accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.); (4) N.J.S.A. 18A:12-24.1(i) (I will support and protect school personnel in proper performance of their duties.); and (5) N.J.S.A. 18A:12-24.1(j) (I will refer all complaints to the chief administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.).

2. Statement of facts: In December, 2011, Mr. Eddie Suriel, a substitute bus driver, met with the complainant to discuss why he was not being recommended for a permanent bus driver position. Dr. Caffrey gave him feedback on the application and interview process and encouraged him to reapply when new positions would be available in the near future. Mr. Suriel became rather agitated and interrupted Dr. Caffrey several times. He then stated, "I know how this game is played. I will just get a board member to tell you to hire me. At the next board meeting on December 15, 2011, when another candidate, Beverly Williams, was on the agenda for approval, Mr. Lebreault and another board member (Israel Varela) attempted to block the hiring of this candidate.. He instead wanted the complainant to hire Mr. Suriel. Mr. Lebreault attempted to convince other Board members to vote against the appointment of Ms. Williams, citing differences in the amount of substitute work each candidate had done. The complainant provided information regarding the selection process and clearly communicated the rationale related to the recommendation. The Board tabled the vote at that meeting. The complainant offered to have staff meet with board members to discuss the process used to make the selection. However, no members pursued this option. The complainant put Ms. Williams on the agenda for the next meeting. Additionally, she provided written details to Board members regarding the process that was used to make this recommendation. Mr. Lebreault responded in writing, stating what he remembered regarding how much each driver worked as a substitute. There has been ongoing dialogue about the practice of using substitute time as the sole criteria for hiring in permanent positions. Mr. Lebreault has frequently said that we should hire certain individuals who have been "in line" for a longer period of time. However, Board policy does not make this requirement. During an executive session at the January 12, 2012 Board meeting, Mr. Lebreault and Mr. Varela again attempted to table the appointment of Ms. Williams. However, other members were able to convince the Board to allow the vote to occur. Ms. Williams was appointed at that meeting.

Date of occurrence: December 15, 2011.

I assert this to be a violation of: (1) N.J.S.A. 18A:12-24(b) (No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others.); (2) N.J.S.A. 18A:12-24.1(h) (I will vote to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer); (3) N.J.S.A. 18A:12-24.1(f) (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.); (4) N.J.S.A. 18A:12-24.1(e) (I recognize that authority rests with the board of education and will make no personal promises or take any private action that may compromise the board.); and (5) N.J.S.A. 18A:12-24.1 (I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.).

3. Statement of facts: Mr. Lebreault has made attempts to receive information on open positions prior to postings. He stated at a meeting with the Complainant that he wanted her to "collaborate" with the Board by allowing them to share information with people in the community more informally before the positions are officially posted. This attempt to gain such information and provide an unfair advantage to friends of Board members in the hiring process. The Complainant stated repeatedly to Mr. Lebreault over many months that she did not believe it was legal for that to happen, and that she would be happy to discuss during committee meetings, with input from the Board attorney. At a meeting with Mr. Lebreault on February 4, 2012, she again encouraged Mr. Lebreault to discuss this with the human resources manager to determine if it was legal and the personnel committee at the next meeting. Mr. Lebreault did discuss this with the Board attorney. The attorney advised Mr. Lebreault that this was not legal, and finally it was determined that the human resources department would simply email Board members with information on open positions simultaneously when they are posted.

Date of occurrence: February 4, 2012.

I assert this to be a violation of: (1) N.J.S.A. 18A:12-24(b) (No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others.); (2) N.J.S.A. 18A:12-24.1 (I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.); and (3) N.J.S.A. 18A:12-24.1(f) (I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain of for the gain of friends.).

4. Statement of facts: On these dates, Mr. Lebreault directed the acting superintendent (Vivian Rodriguez) and the human resources manager (Bernice Marshall) to repost the position of transportation manager. The posting had been previously closed, and the first round of interviews were held just prior to the April 25, 2012 special Board meeting when the superintendent was placed on a leave of absence. Ms. Marshall and others who were present for the first round of interviews, including ten candidates, identified four highly qualified candidates and were ready to move forward with a second round of interviews. Despite that fact, Mr. Lebreault directed the re-posting of the position and further directed Ms. Marshall to contact three named individuals, to inform them that the position was about to be posted. Statements from those involved in this incident are attached.

Date of occurrence: April 26-May 4, 2012.

I assert this to be a violation of: (1) N.J.S.A. 18A:12-24.1(e) (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.); (2) N.J.S.A. 18A:12-24.1(d) (I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.); and (3) N.J.S.A. 18A:12-24(b) (No school official shall use or attempt to

use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others.).

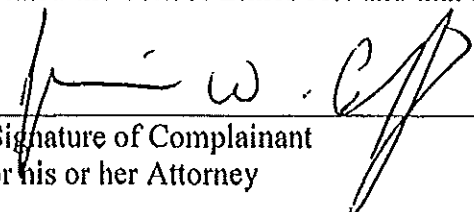
5. Statement of facts: On this date, Mr. Lebreault, accompanied by BOE vice president Kenneth Puccio, attended a meeting of the Perth Amboy Federation, a local chapter of the American Federation of Teachers. The union president, Donna Chiera, called this "emergency" meeting of the union leadership in response to the superintendent's return to work, following an order from the Commissioner of Education that overturned the Board of Education's resolution to place the superintendent on a paid leave of absence. Chiera led the meeting, which was an effort to create a "vote of no confidence" against the superintendent. Mr. Puccio and Mr. Lebreault joined the group after Chiera was having difficulty convincing the leadership in attendance to organize the vote. She stated they were in attendance "to answer any questions we had," according to a teacher in attendance at the meeting. Mr. Lebreault discussed the fact that the superintendent was not allowing board members to enter school buildings, and supported Mr. Puccio in reassuring the group that they (meaning the Board) were committed to removing the superintendent.

Date of occurrence: May 9, 2012.

I assert this to be a violation of: (1) N.J.S.A. 18A:12-24(g) (No school official or business organization in which he has an interest shall represent any person or party other than the school board or school district in connection with any cause, proceeding, application or other matter pending before the school district in which he serves or in any proceeding involving the school district in which he serves or, for officers or employees of the New Jersey School Boards Association, any school district.); (2) N.J.S.A. 18A:12-24.1(e) (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.); (3) N.J.S.A. 18A:12-24.1(i) (I will support and protect school personnel in proper performance of their duties.); (4) N.J.S.A. 18A:12-24.1(d) (I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.); and (5) N.J.S.A. 18A:12-24(b) (No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others.).

WHEREFORE, I, as Complainant, request that the School Ethics Commission find and determine that the above-named Respondent(s) has violated the School Ethics Act and that he or she be subject to such penalty as provided by the Act.

Date 5/22/12


Signature of Complainant
or his or her Attorney

ADDENDUM C16-12

At its meeting on August 28, 2012, the Commission voted to dismiss Count 1 in its entirety, found probable cause to credit the allegation that the respondent violated N.J.S.A. 18A:12-24(b) in Counts 2, 3 and 4; found probable cause to credit the allegation that the respondent violated N.J.S.A. 18A:12-24.1(d) (e) and (h) as to Count 2, N.J.S.A. 18A:12-24.1(d) as to Count 3 and N.J.S.A. 18A:12-24.1(d) and (e) as to Counts 4 and 5. The Commission further found that the complaint is not frivolous in accordance with the standard set forth at N.J.A.C. 6A:28-1.2. In accordance with procedures set forth at N.J.A.C. 6A:28-10.7(c)2, the Commission voted to transmit the matter to the Office of Administrative Law (OAL) for plenary hearing.