

## BEFORE THE WEST VIRGINIA ETHICS COMMISSION

**IN RE:**

**Robert Daquilante  
Former Superintendent, Ritchie County Schools**

**Complaint Nos. VCRB 2009-19  
and CIC 2011-03**

### CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Robert Daquilante freely and voluntarily enter into this Conciliation Agreement pursuant to West Virginia Code § 6B-2-4(s) to resolve all potential charges arising from the above-captioned Complaints.

### FINDINGS OF FACT

The following facts are hereby stipulated and agreed upon by the West Virginia Ethics Commission and Robert Daquilante (Respondent or Daquilante), and are to be taken as true and correct:

1. On September 8, 2009 a citizen filed a verified ethics complaint against Robert Daquilante alleging various violations of the Ethics Act. The complaint was referred to the Commission's Probable Cause Review Board which ordered the issuance of a Notice of Investigation (NOI). Thereafter, the Ethics Commission staff investigated the complaint.
2. Daquilante was the Superintendent of Schools for Ritchie County at all times relevant herein. At all times relevant herein, the Ritchie County Board of Education (BOE) did not have a Personnel Director on staff.
3. Sometime before May 2009, Daquilante knew that the position of Athletic Director would become vacant for the following school year.

4. Sometime before the Athletic Director position was posted, Daquilante's friend/associate, Patrick Allen, learned of the impending Athletic Director vacancy around the time that Steve Lewis took a principal position. This was later confirmed in conversation with Lewis and Daquilante. Daquilante encouraged Allen to apply for the position.
5. On May 12, 2009, Allen hand-delivered his letter of interest (dated May 12, 2009) to Daquilante's office in application for the Athletic Director position.
6. On May 27, 2009 Ritchie County Schools posted a Notice of Vacancy for the position of Athletic Director. Based on his understanding that the BOE desired to have someone with business experience, Daquilante re-wrote the job description to require applicants to have the following qualifications:
  - a. Business and Marketing degree
  - b. Accounts payable experience
  - c. Business experience preferred
  - d. Such alternatives to the above qualifications as the Board may find appropriate and acceptable.
7. The previous job description required applicants to have teaching certification, which Allen lacks. The Ethics Commission does not dispute that a BOE may prefer an Athletic Director to have business experience instead of teaching certification.
8. Only one other person applied for the revised Athletic Director position.
9. Daquilante appointed then Athletic Director, Steve Lewis, and Ritchie County Middle School Principal, Michael Dotson, to the interview committee and repeatedly told each to recommend Allen for the position.
10. Lewis and Dotson interviewed both applicants, and recommended Allen.
11. The job description indicates that both the salary and terms of employment will be established by the Superintendent of Schools. Daquilante instructed a subordinate BOE employee in the payroll office to fix Allen's salary at \$50,000.
12. On June 8, 2009, upon Daquilante's recommendation, the Ritchie County BOE hired Allen as Athletic Director at the salary Daquilante recommended.
13. Daquilante denies tailoring the job description to Allen's qualifications and setting the salary higher than warranted. The Ethics Commission does not dispute that a BOE Superintendent has discretion in setting salaries for certain BOE employees, including directors.

14. Additionally, on multiple occasions, Daquilante authorized two long-time friends who were volunteer coaches to receive mileage reimbursement from Athletic Department funds in lieu of payment. The Ethics Commission does not dispute that these volunteers provided valuable services to the BOE's athletic programs. Nonetheless, no others were provided such reimbursement from the Athletic Department for rendering volunteer services.
15. Since the filing of this complaint, volunteers are no longer paid. Nevertheless, there is no evidence that Daquilante benefitted financially from his actions.
16. On or about July and August 2008, Daquilante caused to have one volunteer paid \$500 for "gas money" from Athletic Department funds without proper documentation. Daquilante asserts that this payment was in good faith to recognize a volunteer assistant coach who necessarily incurred travel expenses.
17. Further, during the course of the Ethics Commission's investigation, Daquilante instructed his subordinates to give misleading material information to the Ethics Commission, including the creation of a document that was not made contemporaneous with the payment referenced in the previous paragraph. Daquilante also ordered his subordinates "to get together to get their stories straight".
18. Daquilante's subordinates interpreted the foregoing directive to mean that the witnesses should try to protect Daquilante. Daquilante's subordinates do not claim that Daquilante threatened them.
19. As a result of Daquilante's direction, on May 6, 2010, pursuant to a subpoena, Dotson, Allen and Lewis testified before the Ethics Commission regarding the underlying complaint. During their testimony, in an effort to save their jobs, Allen and Dotson were not completely forthcoming to the Commission; they subsequently corrected their incorrect testimony under oath.
20. Sometime after the filing of the underlying complaint various BOE employees met with one or more of Daquilante's attorneys at the Board office regarding Daquilante's response to the underlying complaint. Daquilante was present at and participated in those meetings.
21. In his written response to the above-captioned ethics complaint concerning the foregoing payment, Daquilante knowingly provided documentation to the Ethics Commission that was created **after** the filing of the complaint, as set forth above.

22. On July 15, 2011, the West Virginia Ethics Commission initiated a complaint against Daquilante, captioned CIC 2011-03, alleging two violations of W. Va. Code § 6B-2-10(f).
23. On June 15, 2011, the Ethics Commission's Probable Cause Review Board found Probable Cause to believe that Respondent violated the Ethics Act in VCRB 2009-19.
24. On December 21, 2011, the Ethics Commission's Probable Cause Review Board found Probable Cause to believe that Respondent violated the Ethics Act in CIC 2011-03.
25. Effective July 1, 2010, Daquilante retired from his employment with the Ritchie County Board of Education and now lives out of state.

### **RELEVANT LEGAL PROVISIONS**

W. Va. Code § 6B-2-5(b) provides that a public official may not knowingly and intentionally use his office or the prestige of his office for private gain.

W. Va. Code § 6B-2-10(f) prohibits any person from knowingly giving false or misleading material information to the Ethics Commission or inducing another person to give false or misleading material information to the Commission.

### **CONCILIATION OF VIOLATION**

I, Robert Daquilante, freely and voluntarily acknowledge that public officials should not use their public position for the unfair advantage of another person in the employment process. In my defense, I truly believed that Patrick Allen was the best candidate for the Athletic Director position. I further freely and voluntarily acknowledge that public officials should not use their public position to provide compensation to volunteers through a process that does not comply with State regulations. In my

defense, both Louie Nocida and Tom Cowan provided valuable services to the county schools' athletic programs in excess of the amount of compensation they received.

I, Robert Daquilante, freely and voluntarily concede that I was not completely forthcoming to the Ethics Commission. In my defense, I was concerned that innocent people would be adversely affected by my prior actions, and I wanted to protect them. I understand that my intent may be irrelevant to the determination of whether my conduct violates the Ethics Act. Also, I realize now that I should have been completely forthcoming to the Ethics Commission, and that I should have encouraged my subordinates to be completely forthcoming with the Ethics Commission.

I understand that if a person is found to have violated the Ethics Act, the statute authorizes the Commission to impose one or more of the following sanctions:

- (1) Public Reprimand;
- (2) Cease and Desist Order;
- (3) Orders of restitution for money, things of value, or services taken or received in violation of this chapter;
- (4) Reimbursement to the Ethics Commission for the cost of its investigation; and
- (5) A fine of no more than \$5,000 per violation.

In order to resolve this matter, I enter into this Agreement. By signing this Agreement, while it was never my intent to violate the Ethics Act, I understand that my intent may be irrelevant to the determination of whether my conduct violates the Ethics Act, and thus I agree to the imposition of sanctions by the West Virginia Ethics Commission. For this Conciliation Agreement to be finalized, the Ethics Commission

must approve the Agreement and must further determine which sanctions to impose. Therefore, in consideration of all of the above for the settlement of this matter, I agree to the Ethics Commission's imposition of the following sanctions:

- (1) Public Reprimand;
- (2) Fine not to exceed \$ 7,500.

By signing this Agreement, I hereby acknowledge and agree that the Ethics Commission will impose only the sanctions listed above.

It is further agreed that if the Ethics Commission fails to approve this Conciliation Agreement, then this Conciliation Agreement is null and void is and the complaints shall proceed to be re-scheduled for a public hearing on the merits.

If the Ethics Commission approves the agreement, it will enter an Order in which it approves the Agreement and sets forth the sanctions listed above.

I understand that pursuant to West Virginia Code § 6B-2-4(s) that the Conciliation Agreement and the Ethics Commission Order must be made available to the public.

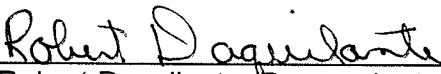
Date:

12/06/12

  
\_\_\_\_\_  
R. Kemp Morton, Chairperson  
WV Ethics Commission

Date:

Nov 25-2012

  
\_\_\_\_\_  
Robert Daquilante, Respondent

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

Robert Daquilante  
Former Superintendent, Ritchie County Schools

Complaint Nos. VCRB 2009-19  
and CIC 2011-03

COMMISSION'S ORDER

After considering the foregoing FINDINGS OF FACT, RELEVANT LEGAL PROVISIONS and CONCILIATION OF VIOLATION, the West Virginia Ethics Commission finds that the Conciliation Agreement is in the best interest of the State and the Respondent, as required by West Virginia Code § 6B-2-4(r). In accordance with West Virginia Code § 6B-2-4(q), the Commission imposes the following sanctions:

- (1) Robert Daquilante shall be, and hereby is, **PUBLICLY REPRIMANDED**; and
- (2) The West Virginia Ethics Commission hereby Orders that Robert Daquilante pay a fine of \$7,500 to the West Virginia Ethics Commission for violating the Ethics Act. The fine is to be paid within thirty (30) days of the entrance of this Order, payable to the West Virginia Ethics Commission.

Date

12/06/12

  
R. Kemp Morton, Chairperson  
W. Va. Ethics Commission