

Before the School Ethics Commission
Docket No.: C85-22
Decision on Motion to Dismiss

Lilian Isaacs,
Complainant

v.

Christine Skurbe, Ken Chiarella, and Gazala Bohra,
Monroe Township Board of Education, Middlesex County,
Respondents

I. Procedural History

The above-captioned matter arises from a Verified Complaint in Lieu of Prerogative Writs that was filed by Lilian Isaacs (Complainant) in the Superior Court of New Jersey, Law Division, Middlesex County, on or about June 3, 2022, and which named the Monroe Township Board of Education (Board) as the Defendant (docketed as MID-L-2709-22).¹ Following the filing of Complainant’s Verified Complaint in Lieu of Prerogative Writs, the Board filed a Motion to Dismiss; thereafter, Plaintiff filed a reply, and the Board filed a sur reply. On July 18, 2022, the Honorable Michael A. Toto, Administrative Judge Superior Court (A.J.S.C.), issued an *Order and Memorandum* stating, in relevant part:

Here, as Defendant argues, Plaintiff’s claims arise entirely under the School Ethics Act and the Ethics for School Board Members. Further, this matter turns on factual issues rather than questions of law. These factual controversies are squarely within the expertise of the Department of Education, the Commissioner, and the [School Ethics Commission]. The eight pending [School Ethics Commission] actions all deal with the four Board Members at issue, and the [School Ethics Commission’s] determinations in those actions would undoubtedly have an impact on the outcome of this matter. If this Court were to rule on this matter while the [School Ethics Commission] handles those eight actions separately, it runs the very plausible risk of “piecemeal adjudication or duplicative, anomalous or contradictory results.” *Archway Programs, [Inc. v. Pemberton Tp. Bd. Of Educ.,]* 352 N.J. Super [420, 425 (App Div. 2002) ... However, the proper course of action for this Court in invoking primary jurisdiction is not to dismiss the matter outright, but to refer the matter to the [School Ethics Commission] and defer judgment until the [School Ethics Commission] decides the related actions.

¹ A related Verified Complaint in Lieu of Prerogative Writs, docketed as MID-L-2704-22, is the subject of another ethics complaint docketed by the Commission as C78-22, and is presently in abeyance.

For these reasons, Defendant's Motion to Dismiss is **DENIED** without prejudice, and the matter is referred to the Commissioner of Education and the School Ethics Commission. The matter will be **STAYED** until the School Ethics Commission decides whether to exercise jurisdiction in this matter, and until the other related matters are resolved. The remainder of the Parties' arguments need not be addressed at this time.

By correspondence dated August 26, 2022, the School Ethics Commission (Commission) advised Complainant:

- 1) The Commission does not have jurisdiction over the Board as a public body, but rather has jurisdiction to adjudicate alleged violations of the School Ethics Act by individual school officials.
- 2) The Commission does not have the authority to declare the May 5, 2022, vote on Resolution B to be invalid, and/or to issue an Order voiding the Board's May 5, 2022, vote; instead, if a violation of the School Ethics Act is found, the Commission can recommend an appropriate sanction, ranging from reprimand to removal of an individual school official(s).
- 3) The Commission will docket the Verified Complaint in Lieu of Prerogative Writs (Resolution B) with a *new* case number and will regard the date of filing as June 3, 2022.
- 4) Based on the language that appears in the Verified Complaint in Lieu of Prerogative Writs (Resolution B), Christine Skurbe, Ken Chiarella, and Gazala Bohra will be named as Respondents.
- 5) The Verified Complaint in Lieu of Prerogative Writs (Resolution B) cites the entirety of the School Ethics Act, and does not indicate which provision(s) of *N.J.S.A.* 18A:12-24 ("Prohibited Acts") and/or *N.J.S.A.* 18A:12-24.1 ("Code of Ethics for School Board Members") you contend may have been violated by Christine Skurbe, Ken Chiarella, and/or Gazala Bohra when they voted on Resolution B. Therefore, **and by no later than close of business on September 2, 2022**, kindly advise which provision(s) of *N.J.S.A.* 18A:12-24 ("Prohibited Acts") and/or *N.J.S.A.* 18A:12-24.1 ("Code of Ethics for School Board Members") you assert may have been violated; which Respondent(s) you submit may have violated each provision(s) of *N.J.S.A.* 18A:12-24 ("Prohibited Acts") and/or *N.J.S.A.* 18A:12-24.1 ("Code of Ethics for School Board Members"); and the specific facts which support the claimed violation(s) of *N.J.S.A.* 18A:12-24 ("Prohibited Acts") and/or *N.J.S.A.* 18A:12-24.1 ("Code of Ethics for School Board Members"). *N.J.A.C.* 6A:28-6.3.

The Commission further advised Complainant, "Following receipt of the information detailed in Paragraph 5, the Commission will docket the Verified Complaint in Lieu of Prerogative Writs (Resolution B) with a *new* case number, and then serve same on the named Respondents. To the extent that the named Respondents believe that the Verified Complaint in Lieu of Prerogative

Writs (Resolution B) should be placed in abeyance, they may argue their position in a responsive pleading.”

Following the Commission’s August 26, 2022, correspondence, Complainant filed a Complaint with the Commission naming Christine Skurbe (Respondent Skurbe), Ken Chiarella (Respondent Chiarella), and Gazala Bohra (Respondent Bohra) (collectively referred to as Respondents) as Respondents, and alleging violations of *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c), as well as *N.J.S.A.* 18A:12-24.1(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(f), and *N.J.S.A.* 18A:12-24.1(i) of the Code of Ethics for School Board Members (Code).

On September 8, 2022, the Complaint was served on Respondents via electronic mail, notifying them that ethics charges had been filed against them with the Commission, and advising that they had twenty (20) days to file a responsive pleading.² On September 20, 2022, Respondents filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and Complainant filed a response to the Motion to Dismiss on October 31, 2022.

The parties were notified by correspondence dated November 14, 2022, that the above-captioned matter would be discussed by the Commission at its meeting on November 22, 2022, in order to make a determination regarding the Motion to Dismiss. Following its discussion on November 22, 2022, the Commission adopted a decision at its meeting on December 20, 2022, denying the request filed by Respondents for the above-captioned matter to be held in abeyance, but granting the Motion to Dismiss in its entirety because Complainant failed to plead sufficient credible facts to support a finding that Respondents violated *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24.1(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(f), and/or *N.J.S.A.* 18A:12-24.1(i).

II. Summary of the Pleadings

A. *The Complaint*

Complainant asserts that “by attending the Executive Session discussion and voting on” Resolution B, a resolution to extend the suspension (with pay) of a Monroe Township School District (District) employee, namely Michael Gorski, Respondents – Christine Skurbe, Ken Chiarella and Gazala Bohra – “who had clear conflicts of interest, failed to recuse themselves in accordance with the requirements of the ... Act.”

As for the nature of Respondents’ conflicts, Complainant states:

- ❖ **Respondent Skurbe** “has a history of initiating a campaign of vengeance against Michael Gorski.” Because of Respondent Skurbe’s “vengeful text messages and

² In order to conduct business during the Coronavirus (COVID-19) pandemic, the Commission implemented an electronic filing system, which remains a permissible method by which the Commission and parties can effectuate service of process. Consequently, service of process was effectuated by the Commission through electronic transmission only.

social media posts,” Mr. Gorski’s attorney “issued a cease and desist letter” to Respondent Skurbe.

- ❖ In or around 2018, **Respondent Chiarella** filed ethics charges against Mr. Gorski and “had previously recused himself on all votes regarding Mr. Gorski’s employment.”
- ❖ **Respondent Bohra** “is openly biased against Mr. Gorski and has publicly stated that based upon her personal experiences with Mr. Gorski, no one will ever persuade her to vote in his favor.”

Complainant submits that Respondents’ “continuing animus” against Mr. Gorski is “well known throughout the Monroe community,” and has not been resolved. Based on their conflicts, “and in order to dispel the appearance of impropriety,” Respondents should have recused themselves from the Executive Session discussion of Mr. Gorski’s employment, and the ensuing vote (on Resolution B) related to his employment.

According to Complainant, by failing to recuse themselves from the May 5, 2022, Executive Session discussion of Mr. Gorski’s employment, and voting on Resolution B (to continue Mr. Gorski’s suspension), Respondents violated:

- ❖ *N.J.S.A. 18A:12-24(b)* because, by failing to recuse themselves, Respondents used their “official position to secure unwarranted privileges and advantages for themselves and against Mr. Gor[s]ki; i.e., they used their official positions to exact personal revenge against Mr. Gorski”;
- ❖ *N.J.S.A. 18A:12-24(c)* because, by failing to recuse themselves, Respondents “acted in their official capacities in a matter for which they had [personal] involvement and created a benefit for themselves and against Mr. Gorski; i.e., they used their official positions to exact personal revenge against Mr. Gorski”;
- ❖ *N.J.S.A. 18A:12-24.1(b)* because, by failing to recuse themselves, Respondents “failed to make decisions in terms of the educational welfare of the children and the District,” and instead “used their official positions to exact personal revenge against Mr. Gorski”;
- ❖ *N.J.S.A. 18A:12-24.1(c)* because, by failing to recuse themselves, Respondents “failed to confine their official action to policy making, planning, and appraisal,” and instead “used their official positions to exact personal revenge against Mr. Gorski”;
- ❖ *N.J.S.A. 18A:12-24.1(d)* because, by failing to recuse themselves, Respondents “failed to carry out their official responsibilities to see that the District is well run,” and instead “used their official positions to exact personal revenge against Mr. Gorski”;

- ❖ *N.J.S.A.* 18A:12-24.1(f) because, by failing to recuse themselves, Respondents “used their official position for personal gain and to exact personal revenge against Mr. Gorski”; and
- ❖ *N.J.S.A.* 18A:12-24.1(i) because, by failing to recuse themselves, Respondents “failed to support and protect school personnel in proper performance of their duties,” and instead “used their official positions to exact personal revenge against Mr. Gorski.”

B. *Motion to Dismiss*

Following receipt of the Complaint, Respondents filed a Motion to Dismiss, and initially argue that this matter should be held in *abeyance* because Respondent Skurbe’s “alleged history of personal animosity toward Mr. Gorski” is “actually pending” before the Commission. More specifically, in the matter docketed as C37-22, Complainant alleged, in Count 2, that Respondent Skurbe “has a history of defaming Mr. Gorski and otherwise undermining his standing in the school community.”

As for the allegations in the Complaint, generally, “Respondents have submitted sworn certifications squarely denying the sort of personal animosity or bias toward Mr. Gorski that would have precluded them from voting to place him on leave.” Moreover, “the vague and conclusory allegations of the [C]omplaint are insufficient, on their face, to state a violation of the Act.”

Regarding the violation of *N.J.S.A.* 18A:12-24(b), Respondents argue, “There are no facts alleged in the [C]omplaint supporting an inference that any of the [R]espondents used or attempted to use their Board positions to secure any unwarranted privileges, advantages or employment.” As for the violation of *N.J.S.A.* 18A:12-24(c), Complainant needed to provide facts evidencing “a benefit so specific and exclusive to [B]oard members that it can reasonably be said they used their [B]oard position for personal gain,” but failed to do so here.

Regarding the violation of *N.J.S.A.* 18A:12-24.1(b), Respondents assert Complainant has not “pointed to” a “decision” or “deliberate action” that was “contrary to the ‘educational welfare of children’” or that “obstruct[ed] the programs and policies designed to meet children’s needs.” Absent a nexus between Respondents’ actions and an actual, not a theoretical, decision or action, this allegation cannot be sustained.

As for the violations of *N.J.S.A.* 18A:12-24.1(c) and *N.J.S.A.* 18A:12-24.1(d), Respondents contend “the only ‘[B]oard action’ alleged in the [C]omplaint is [R]espondents’ participation in an executive session discussion of a confidential personnel matter involving a high-ranking administrator who deals directly with the Board, followed by a public vote to place him on administrative leave.” According to Respondents, that “Board level activity – discussing and voting on personnel matters based on recommendations of the Superintendent” cannot be considered “the sort of day-to-day administration of the schools contemplated by” these provisions. Respondents further contend Complainant has not alleged that Respondents gave “a direct order to school personnel or became directly involved in activities or functions that are the responsibility of school personnel or the day-to-day administration of the school district or charter school.”

Regarding the violation of *N.J.S.A. 18A:12-24.1(f)*, Respondents argue the Complainant “alleges no specific facts suggesting that [R]espondents’ conduct was ‘on behalf of, or at the request of’ anyone other than themselves,” nor does the Complaint “allege facts supporting an inference that [R]espondents ‘used the schools to acquire some benefit’ for themselves, their families, or their friends.”

Finally, as for the violation of *N.J.S.A. 18A:12-24.1(i)* Respondents argue, “Nothing in the [C]omplaint alleges, much less substantiates, that [R]espondents publicly, or directly in private, attacked [Mr. Gorski] since they have been members of the Board.” Furthermore, a violation of *N.J.S.A. 18A:12-24.1(i)* “cannot ever be based on a Board’s vote to accept a personnel recommendation of its Superintendent” because then every “adverse employment action” could be the subject of an ethics violation.

With the above in mind, Respondents assert the Complaint fails to allege sufficient facts to establish a violation of the Act, and the Complaint should be dismissed.

C. *Response to Motion to Dismiss*

In response to the Motion to Dismiss, Complainant initially argues, “No other case currently pending or resolved addresses these sets of facts, issues, and claims,” and notes Respondents “lied to the Commission in their certifications.” Complainant reasserts Respondents have “a long-standing personal animus towards ... [Mr.] Gorski, that is unrelated to his job performance or the settlement of the ethics charges against him in the OAL case” Complainant maintains that Respondents’ animus towards Mr. Gorski stems from “his support for building a new school to alleviate severe overcrowding in [the District’s] schools.” According to Complainant, Respondents “support an expansion” of the “deteriorating” schools and “denounce[] Mr. Gorski’s ‘unwillingness to explore other options’” other than building a new school.

Complainant reasserts Respondents have misrepresented the ethics charges filed against Mr. Gorski and have led a campaign of personal attacks on social media against him as well. According to Complainant, as part of their negative misrepresentations, Respondents “falsely” claimed that Mr. Gorski was the “highest paid business administrator in the county” which, according to Complainant, is not true. In addition, since Mr. Gorski has retired, Board President/Respondent Skurbe, “supported making Mr. Gorski’s successor, Laura Allen, the highest paid business administrator in Middlesex County in spite of her weaker credentials and fewer responsibilities.” Complainant notes, Mr. Gorski’s replacement is less qualified, has fewer credentials, does not “assume full duties” of a business administrator/board secretary, and is paid more than Mr. Gorski was paid.

Complainant contends that, despite the advice of Board counsel, and despite Respondent Chiarella recusing himself, Respondent Skurbe “refused to recuse herself” from voting at the June 16, 2021, Board meeting, and was also “overheard whispering to a fellow [B]oard member a reminder to vote ‘no to AJ’; Item AJ was the business administrator contract.” Complainant further contends, in doing so, Respondent Skurbe “exercised undue influence on another [B]oard member to influence him to vote against Mr. Gorski’s contract.” Complainant further notes, since Mr.

Gorski's "suspension," the Board has made significant changes in the business office, including raising the salary of the business administrator's confidential secretary and the accounts payable clerk, as well as raising the salary of their two children who are employed by the Board. In addition, two other individuals who work in accounting also received raises. Complainant also deems it noteworthy to mention that Mr. Gorski's replacement, the Acting Business Administrator, "is paid significantly more than her predecessor ... for significantly less responsibility." Therefore, according to Complainant, "it can be reasonably concluded that Respondents[] gained control of the Business office, to the detriment of the operations and fiscal health of the ... [D]istrict and have acted as [D]istrict administrators, rather than Board members in violation of" *N.J.S.A. 18A:12-24.1(c)* and *N.J.S.A. 18A:12-24.1(d)*.

Finally, Complainant maintains "the totality of evidence proves that" Respondents "have personal conflicts of interest that required them to recuse themselves from voting on matters related to Mr. Gorski"; that Respondents Skurbe and Chiarella were advised by Board counsel to recuse themselves; that Respondents have a "personal animus towards" Mr. Gorski "that is unrelated to his job performance or the ethics charges against him that were resolved" in 2020; and the Board's "handpicked auditor failed to uncover any financial crimes in a forensic investigation." Moreover, the Board has "chosen to give huge increases in compensation to central office staff and two of their [children], which raises the suspicion that they are getting paid additional monies to remain silent about unethical and/or illegal activities at the board office." For these reasons of "clear and egregious violations," Complainant maintains Respondents should receive "consequences."

D. *Public Comments Offered at the Commission's Meeting on November 22, 2022*

At the Commission's meeting on November 22, 2022, members of the public appeared by telephone and offered public comment regarding the above-captioned matter. More detailed information regarding the substance of those public comments can be found in the [minutes](#) from the Commission's meeting on November 22, 2022.

III. Analysis

A. *Standard for Motion to Dismiss*

In determining whether to grant a Motion to Dismiss, the Commission shall review the facts in the light most favorable to the non-moving party (Complainant), and determine whether the allegation(s), if true, could establish a violation(s) of the Act. Unless the parties are otherwise notified, a Motion to Dismiss and any response is reviewed by the Commission on a summary basis. *N.J.A.C. 6A:28-8.1 et seq.* Thus, the question before the Commission is whether Complainant has pled sufficient facts which, if true, could support a finding that Respondents violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, *N.J.S.A. 18A:12-24.1(b)*, *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(d)*, *N.J.S.A. 18A:12-24.1(f)*, and/or *N.J.S.A. 18A:12-24.1(i)*. The Commission notes that, despite the offering of public comment at its meeting on November 22, 2022, the Commission's review of this matter was limited solely to the parties' written submissions.

B. Request for Matter to be Placed in Abeyance

As part of their Motion to Dismiss, Respondents argue that the above-captioned matter should be placed in *abeyance* because Respondent Skurbe’s “alleged history of personal animosity toward Mr. Gorski” is “actually pending” before the Commission and, more specifically, is directly at-issue in Count 2 of the Complaint docketed as C37-22 (*Fabiano v. Skurbe*, Monroe Township Board of Education, Middlesex County). In her response to Respondents’ Motion to Dismiss, Complainant did not directly respond to Respondents’ request.

Prior to discussing the merits of Respondents’ Motions to Dismiss, the Commission reviewed Respondents’ abeyance request. After review, the Commission determined that because, at its meeting on November 22, 2022, it adopted a written decision not finding probable cause to credit the allegations in Count 2 of the Complaint docketed as C37-22, it was not required, pursuant to *N.J.S.A. 18A:12-32* and *N.J.A.C. 6A:28-1.5*, to place the above-captioned matter in abeyance. Consequently, the Commission denied Respondents’ request to place the above-captioned matter in abeyance.

C. Alleged Violations of the Act

Complainant submits that, based on the conduct more fully detailed above, Respondents violated *N.J.S.A. 18A:12-24(b)* and *N.J.S.A. 18A:12-24(c)*, and these provisions of the Act state:

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;

c. No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has 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;

In order to credit a violation of *N.J.S.A. 18A:12-24(b)*, the Commission must find evidence that Respondents used or attempted to use their official position to secure an unwarranted privilege, advantage or employment for themselves, members of their immediate family, or “others.” In addition, to credit a violation of *N.J.S.A. 18A:12-24(c)*, the Commission must find evidence that Respondents acted in their official capacity in a matter where they, or a member of their immediate family, had a direct or indirect financial involvement that might reasonably be expected to impair their objectivity, or in a matter where they had a personal involvement that created some benefit to them, or to a member of their immediate family.

Complainant further submits that Respondents violated *N.J.S.A. 18A:12-24.1(b)*, *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(d)*, *N.J.S.A. 18A:12-24.1(f)*, and *N.J.S.A. 18A:12-24.1(i)*, and these provisions of the Code provide:

b. I will make decisions in terms of the educational welfare of children and will seek to develop and maintain public schools that meet the individual needs of all children regardless of their ability, race, creed, sex, or social standing.

c. 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.

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.

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.

i. I will support and protect school personnel in proper performance of their duties.

Pursuant to *N.J.A.C. 6A:28-6.4(a)*, violations of *N.J.S.A. 18A:12-24.1(b)*, *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(d)*, *N.J.S.A. 18A:12-24.1(f)*, and *N.J.S.A. 18A:12-24.1(i)* need to be supported by certain factual evidence, more specifically:

2. Factual evidence of a violation of *N.J.S.A. 18A:12-24.1(b)* shall include evidence that Respondents willfully made a decision contrary to the educational welfare of children, or evidence that Respondents took deliberate action to obstruct the programs and policies designed to meet the individual needs of all children, regardless of their ability, race, color, creed or social standing.

3. Factual evidence of a violation of *N.J.S.A. 18A:12-24.1(c)* shall include evidence that Respondents took board action to effectuate policies and plans without consulting those affected by such policies and plans, or took action that was unrelated to Respondents' duty to (i) develop the general rules and principles that guide the management of the school district or charter school; (ii) formulate the programs and methods to effectuate the goals of the school district or charter school; or (iii) ascertain the value or liability of a policy.

4. Factual evidence of a violation of *N.J.S.A. 18A:12-24.1(d)* shall include, but not be limited to, evidence that Respondents gave a direct order to school personnel or became directly involved in activities or functions that are the responsibility of school personnel or the day-to-day administration of the school district or charter school.

6. Factual evidence of a violation of *N.J.S.A. 18A:12-24.1(f)* shall include evidence that Respondents took action on behalf of, or at the request of, a special interest group or persons organized and voluntarily united in opinion and who adhere

to a particular political party or cause; or evidence that Respondents used the schools in order to acquire some benefit for themselves, a member of their immediate family or a friend.

9. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(i) shall include evidence that Respondents took deliberate action which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties.

Based on its review, the Commission finds that even if the facts as pled in the Complaint are proven true by sufficient credible evidence, they would not support a finding(s) that Respondents violated *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24.1(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(f), and/or *N.J.S.A.* 18A:12-24.1(i). Although, in its correspondence dated August 26, 2022, the Commission specifically directed Complainant to provide the “specific facts which support the claimed violation(s) of *N.J.S.A.* 18A:12-24 (“Prohibited Acts”) and/or *N.J.S.A.* 18A:12-24.1 (“Code of Ethics for School Board Members”).³ *N.J.A.C.* 6A:28-6.3,” she failed to do so. Instead of offering *specific* facts, Complainant merely claimed that Respondent Skurbe “has a history of initiating a campaign of vengeance against” Mr. Gorski, and has sent non-specific “vengeful text messages” and posted equally nebulous information on social media; Respondent Chiarella filed an ethics complaint against Mr. Gorski (more than four (4) years ago); and Respondent Bohra is “openly biased against Mr. Gorski” and “has publicly stated” that she will never “vote in his favor.” In essence, Complainant offers conclusory statements that lack clear and specific factual support and, in the absence thereof, the Commission is deprived of the opportunity to assess whether there may have been a conflict of interest which required Respondent Skurbe, Respondent Chiarella, and/or Respondent Bohra to recuse themselves from any and all matters involving Mr. Gorski as contended, and to assess whether there are any facts which could possibly support a violation(s) of *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24.1(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(f), and/or *N.J.S.A.* 18A:12-24.1(i). Although Complainant’s response to the Motion to Dismiss contains more specific factual assertions, same are notably absent from the charging document.

Other than a proclamation that Respondents had a conflict of interest, there is absolutely no factual evidence or support for a finding(s) that Respondents used or attempted to use their official position to secure unwarranted privileges, advantages or employment for themselves, members of their immediate family or others (*N.J.S.A.* 18A:12-24(b)); Respondents acted in their official capacity in a matter where they, or a member of their immediate family, had a direct or indirect financial involvement that might reasonably be expected to impair their objectivity, or in a matter where they had a personal involvement that created some benefit to them, or to a member of their immediate family (*N.J.S.A.* 18A:12-24(c)); and/or Respondents willfully made a decision contrary to the educational welfare of children, or evidence that Respondents took deliberate action to obstruct the programs and policies designed to meet the individual needs of all children, regardless of their ability, race, color, creed or social standing (*N.J.S.A.* 18A:12-24.1(b)).

³ At the time of this correspondence, Complainant was represented by an attorney.

There is also a dearth of factual evidence that Respondents took board action to effectuate policies and plans without consulting those affected by such policies and plans, or took action that was unrelated to Respondents' duty to (i) develop the general rules and principles that guide the management of the school district or charter school; (ii) formulate the programs and methods to effectuate the goals of the school district or charter school; or (iii) ascertain the value or liability of a policy (*N.J.S.A.* 18A:12-24.1(c)); Respondents gave a direct order to school personnel or became directly involved in activities or functions that are the responsibility of school personnel or the day-to-day administration of the school district or charter school (*N.J.S.A.* 18A:12-24.1(d)); Respondents took action on behalf of, or at the request of, a special interest group or persons organized and voluntarily united in opinion and who adhere to a particular political party or cause; or evidence that Respondents used the schools in order to acquire some benefit for themselves, a member of their immediate family or a friend (*N.J.S.A.* 18A:12-24.1(f)); and/or Respondents took deliberate action which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties (*N.J.S.A.* 18A:12-24.1(i));

Accordingly, the Commission finds that the alleged violations of *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24.1(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(f), and *N.J.S.A.* 18A:12-24.1(i) must be dismissed.

IV. Decision

Based on the foregoing, and in reviewing the facts in the light most favorable to the non-moving party (Complainant), the Commission voted to deny Respondents' request to place the above-captioned matter in abeyance, and to **grant** the Motion to Dismiss in its entirety because Complainant failed to plead sufficient credible facts to support a finding that Respondents violated *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24.1(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(f), and/or *N.J.S.A.* 18A:12-24.1(i).

Pursuant to *N.J.S.A.* 18A:12-29(b), the Commission hereby notifies Complainant and Respondents that, for the reasons set forth above, this matter is dismissed. This decision is a final decision of an administrative agency and, therefore, it is appealable only to the Superior Court-Appellate Division. *See, New Jersey Court Rule 2:2-3(a).*

Robert W. Bender, Chairperson

Mailing Date: December 20, 2022

***Resolution Adopting Decision
in Connection with C85-22***

Whereas, at its meeting on November 22, 2022, the School Ethics Commission (Commission) considered the Complaint, the Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and the response to the Motion to Dismiss submitted in connection with the above-referenced matter; and

Whereas, at its meeting on November 22, 2022, the Commission discussed denying Respondents' request to place the above-captioned matter in abeyance; and

Whereas, at its meeting on November 22, 2022, the Commission discussed granting the Motion to Dismiss in its entirety for failure to plead sufficient credible facts to support the allegations that Respondents violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, *N.J.S.A. 18A:12-24.1(b)*, *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(d)*, *N.J.S.A. 18A:12-24.1(f)*, and/or *N.J.S.A. 18A:12-24.1(i)*; and

Whereas, at its meeting on December 20, 2022, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on November 22, 2022; and

Now Therefore Be It Resolved, that the Commission hereby adopts the decision and directs its staff to notify all parties to this action of its decision herein.

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on December 20, 2022.

Kathryn A. Whalen, Esq.
Director, School Ethics Commission