

***Before the School Ethics Commission***  
***Docket No.: C86-22***  
***Decision on Motion to Dismiss***

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**Craig Margolies,  
Complainant**

v.

**Todd Weinstein, Mark Bisci, Daniel Croson, and Ryan Valentino,  
Warren Township Board of Education, Somerset County,  
Respondents**

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**I. Procedural History**

The above-captioned matter arises from a Complaint that was filed on September 9, 2022, by Craig Margolies (Complainant), alleging that Todd Weinstein (Respondent Weinstein), Mark Bisci (Respondent Bisci), Daniel Croson (Respondent Croson), and Ryan Valentino (Respondent Valentino) (collectively referred to as Respondents), members of the Warren Township Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* More specifically, the Complaint avers that Respondents violated *N.J.S.A.* 18A:12-24.1(a) of the Code of Ethics for School Board Members (Code).

On September 12, 2022, the Complaint was served on Respondents via electronic mail, notifying them that ethics charges had been filed against them with the School Ethics Commission (Commission), and advising that they had twenty (20) days to file a responsive pleading.<sup>1</sup> On October 3, 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 27, 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, 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:12-24.1(a).

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<sup>1</sup> 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.

## **II. Summary of the Pleadings**

### **A. *The Complaint***

Complainant states that at the Board’s meeting on August 29, 2022, Respondents “voted to reject the 2022-[20]23 K-8 health and physical education curriculum proposed by the [] curriculum committee.” As a result, the K-8 health and physical education curriculum “reverted” to the previous school year’s curriculum, and it does not meet the “revised Student Learning Standards for Comprehensive Health and Physical Education adopted in 2020,” thereby leaving the Warren Township School District (District) “in noncompliance with the New Jersey Student Learning Standards (NJSLs).”

According to Complainant, Respondents’ “votes were made with full knowledge that rejection of the proposed” K-8 health and physical education curriculum “would leave the school district in noncompliance with the NJSLs and in an unlawful position.” Complainant further asserts that, in denying his “children the opportunity to a curriculum that meets the NJSLs, [Respondents] have illegally usurped the power to determine education standards for NJ public school students from the State Board,” and their actions “are a direct violation of the oath in which they swore to uphold and enforce all laws, rules and regulations of the State Board of Education” in violation of *N.J.S.A. 18A:12-24.1(a)*.

### **B. *Motion to Dismiss***

In their Motion to Dismiss, Respondents note that, at the Board meeting on August 29, 2022, “many community members voiced concerns about [the] proposed curriculum.” More specifically, individuals expressed concerns with the “opt out process,” and requested more information related to how this process would function. Furthermore, “[s]everal community members also expressed concerns about a ‘lack of transparency’ regarding the curriculum development process and requested more detailed information on the curriculum . . . .” Several community members also “urged” the Board to “vote down the curriculum until there was more information” shared, and one parent even opined that adoption of the proposed curriculum “would be disregarding parental consultation during the curriculum development process.”

According to Respondents, they “consider[ed] this feedback,” and decided to vote against the proposed health and physical education curriculum, not against the NJSLs. Moreover, Respondents maintain that the administration has “not indicated that the 2019 curriculum is the final curriculum to be proposed this school year” and, as such, Respondents submit that they only voted against the curriculum that was proposed at the August 29, 2022, meeting, and “will continue to consider and vote on proposals for curriculum for the 2022-2023 school year that both align with the NJSLs and respond to parental feedback.”

With the above in mind, Respondents assert that their vote against the proposed curriculum does not violate *N.J.S.A. 18A:12-24.1(a)*, or any other provision of the Act. Respondents further assert they did not “fail to uphold any expectation – [instead,] representing their constituents they simply cast legitimate votes against the specific curriculum proposed by the local school district.” Per Respondents, they did not vote against the NJSLs, or in any way

violate a law, rule, regulation, or court order. Simply voting no to proposed curriculum does not constitute a violation of any law, rule, or regulation of the State Board of Education because the law does not require Respondents to approve proposed curriculum.

Respondents additionally argue that the State Board of Education “is responsible for establishing state educational goals and standards,” but it does not “*mandate* curriculum.” Respondents argue their vote against the proposed curriculum “did not illegally usurp any power by the State Board [of Education] to determine education standards but exercised their discretion to approve or reject curriculum and determine what is appropriate for the thorough and efficient education of the students in the [D]istrict.”

Respondents maintain that, not only were they “within their authority to deny the curriculum, but ensured the Board complied with state regulation requiring parental input.” Respondents submit that as “long as alternative curricula exists, Respondents did not deny students curriculum that aligns with the NJSLS.” Because there are alternative options for curricula that align with the NJSLS, Complainant “has failed to show how rejecting a single proposal denies students a curriculum that aligns with the NJSLS ... .”

For these reasons, Respondents argue Complainant “fails to assert a factual basis for, or a legal violation of *N.J.S.A.* 18A:12-24.1(a) and, therefore, they “respectfully request” the Complaint be dismissed.

### ***C. Response to Motion to Dismiss***

In response to the Motion to Dismiss, Complainant argues that Respondents’ “summary of the August 29, 2022[,] Board meeting is a biased account.” and notes that members of the public equally spoke out for and against the new curriculum. Complainant particularly named a member of the community who is “politically aligned with” Respondent Croson, who thanked the individual on social media posting, “We appreciated you serving as a voice of our constituents. Glad we were able to act with common sense and reject these extreme standards tonight.”

As to Respondents’ claims that the Board “could still implement a curriculum that aligns with NJSLS this school year,” Complainant argues, “what the Board could do in the future is immaterial and is certainly not factual background.” Complainant argues what matters now is that children who attend District schools “are not being taught a curriculum that meets [the] NJSLS.”

Regarding Respondents’ assertion that they based their vote on “parental input,” Complainant contends Respondents did not “disclose that as many people spoke in favor of passing the proposed curriculum as did those who raised issues.” Furthermore, the “opt-out” provision would have allowed every parent to make the choice for their child. Also, by “reverting to the 2019 curriculum, the Board has instead denied our entire community the opportunity to receive this important education.”

Complainant maintains that, at the conclusion of the August Board meeting, the Superintendent commented, “I just want to make clear that the Board has directed the administration to be out of compliance with State law whatever the ramifications might be to the Board.” Complainant further maintains, the Superintendent’s statement confirms that the current curriculum “does not comply with [the] NJSLS.”

Despite Respondents’ beliefs that they “acted within their authority to deny the curriculum, Complainant argues “it is not within the Board’s authority to deny access to a curriculum that aligns with NJSLS nor is it within the Board’s authority to act in direct violation of its own policies.” Complainant asserts his “children have been denied access to important education that the State had decided is to be taught in its schools.” According to Complainant, Respondents “knowingly voted for this result” and they “have failed to uphold the law and they should be held accountable.”

**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:12-24.1(a)*. 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. *Alleged Violations of the Act***

Complainant submits that Respondents violated *N.J.S.A. 18A:12-24.1(a)*, and this provision of the Code provides, “I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures.”

Pursuant to *N.J.A.C. 6A:28-6.4(a)(1)*, factual evidence of a violation of *N.J.S.A. 18A:12-24.1(a)* shall include a copy of a final decision from any court of law or administrative agency of this State demonstrating that Respondents failed to enforce all laws, rules and regulations of the

State Board of Education, and/or court orders pertaining to schools or that Respondents brought about changes through illegal or unethical procedures.

Following its review of the Complaint, the Commission finds that even if the facts as pled are proven true by sufficient credible evidence, they would not support a finding that Respondents violated *N.J.S.A.* 18A:12-24.1(a). Although required by *N.J.A.C.* 6A:28-6.4(a)(1), Complainant has not provided **a copy of a final decision(s)** from any court of law or other administrative agency demonstrating or finding that any of the named Respondents violated any specific law(s), rule(s), or regulation(s) of the State Board of Education and/or court orders pertaining to schools, or that they brought about changes through illegal or unethical procedures, when they engaged in any of the actions/conduct set forth in the Complaint.

If Complainant can provide, within the period of limitations, “a final decision from any court of law or administrative agency of this State” demonstrating that an individual school official, including any of the individually named Respondents, acted contrary to the laws, rules, and regulations promulgated by the State Board of Education, he/she could *then* be found in violation of *N.J.S.A.* 18A:12-24.1(a) for the conduct outlined in the Complaint. However, in the absence of the required final decision(s), and based on the record in its current form, the Commission is presently constrained to dismiss the alleged violation of *N.J.S.A.* 18A:12-24.1(a).

#### **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 **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:12-24.1(a).

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).*

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Robert W. Bender, Chairperson

Mailing Date: December 20, 2022

***Resolution Adopting Decision  
in Connection with C86-22***

***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 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:12-24.1(a)*; 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.

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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.

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