

***Before the School Ethics Commission***  
***Docket No.: C39-19***  
***Decision on Motion to Dismiss***

---

**Vincent and Deborah Esposito,  
*Complainants***

v.

**Lorna Oats-Santos,  
Ridgewood Board of Education, Bergen County,  
*Respondent***

---

**I. Procedural History**

This matter arises from a Complaint that was filed on May 23, 2019, by Vincent Esposito (Mr. Esposito) and Deborah Esposito (Mrs. Esposito) (collectively referred to as Complainants), alleging that Lorna Oats-Santos (Respondent), an administrator employed by the Ridgewood Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* By correspondence dated May 28, 2019, Complainants were notified that the Complaint was deficient, and required amendment before the School Ethics Commission (Commission) could accept their filing. On June 14, 2019, Complainants cured all defects and filed an Amended Complaint (Complaint) that was deemed compliant with the requirements detailed in *N.J.A.C.* 6A:28-6.3. The Complaint alleges that Respondent violated *N.J.S.A.* 18A:12-24(a) in Counts 1-6, violated *N.J.S.A.* 18A:12-24(c) in Counts 1-6, and violated *N.J.S.A.* 18A:12-24(d) in Count 5.

On June 17, 2019, the Complaint was served on Respondent, via regular and certified mail, notifying her that charges were filed against her with the Commission, and advising that she had twenty (20) days to file a responsive pleading. On July 9, 2019, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and also alleged that the Complaint is frivolous. On July 29, 2019, Complainants filed a response to the Motion to Dismiss and allegation of frivolous filing.

The parties were notified by correspondence dated August 20, 2019, that this matter would be placed on the Commission's agenda for its meeting on August 27, 2019, in order to make a determination regarding the Motion to Dismiss and allegation of frivolous filing. At its meeting on August 27, 2019, the Commission considered the filings in this matter and, at its meeting on September 24, 2019, the Commission voted to grant the Motion to Dismiss in its entirety because Complainants failed to plead sufficient, credible facts to support a finding that Respondent violated *N.J.S.A.* 18A:12-24(a) as alleged in Counts 1-6, violated *N.J.S.A.* 18A:12-24(c) as contended in Counts 1-6, and/or violated *N.J.S.A.* 18A:12-24(d) as asserted in Count 5. The Commission also voted to find the Complaint not frivolous, and to deny Respondent's request for sanctions.

## II. Summary of the Pleadings

### A. *The Complaint*

In Count 1, Complainants assert that Respondent (building principal) violated an “informal agreement” that exists among Complainants and school personnel, including Respondent, which permits Complainants’ children to stay inside for recess on cold days so they do not get sick. Complainants assert that when their children refused to go outside on January 8, 2019, and told their respective teachers that their father told them they were not to go outside, they were brought to the main office, and then Respondent “verbally abused” them, refused to call Complainants at their children’s “multiple” requests, made them eat their lunches quickly in an office, pointed her finger in the face of one child, and “invaded” the child’s space and “pushed [the child] down” into a chair. Complainants contend Respondent violated *N.J.S.A.* 18A:12-24(a) and *N.J.S.A.* 18A:12-24(c) because she directly engaged in behavior which is in conflict with the proper execution of her role as principal; engaged minors in an adult discussion and breached the school’s Civility Policy; took advantage of her position by refusing to “immediately call” Complainants, even after multiple requests by the children were made; acted in her own best interest, not that of the children’s throughout the incident; and “her actions instilled fear in [the] children and her personal need to impose her will on [the] children made her loose [sic] her objectivity and clouded her judgement when dealing with two minors.”

In Count 2, Complainants assert that Respondent “does not have an alternative indoor recess policy for sick or injured children.” Because of this, Complainants have an “agreement” with Respondent, which according to Complainants, has been in place for “over a year and spanning two grades,” and requires that Mrs. Esposito “email or call the office and let them know the [children] would be staying inside during recess.” Complainants note this agreement was established for inclement weather or when the children are “sick or not feeling well.” According to Complainants, the children previously experienced an “intense and prolonged sickness when [they] were sent outside for recess in wet, snowy conditions.” Furthermore, Complainants assert that on November 14, 2018, Respondent set a “past precedent” when Mrs. Esposito forgot to contact the school, but Respondent allowed the boys to stay in for recess. Complainants contend that on the morning of the incident (January 8, 2019), Mr. Esposito told the children “that he did not think there would be outdoor recess due to the weather, but if there was they needed to stay inside.” Complainants assert Respondent violated *N.J.S.A.* 18A:12-24(a) and *N.J.S.A.* 18A:12-24(c) because she did not address or accommodate the needs of students who attend the school; her refusal to have an alternative to outdoor recess was in her and the school’s best interest to save money, and was not in the best interest of Complainants’ children; her contradictory behavior (occasionally choosing to contact Complainants when their children said they did not want to go outside for recess) was in direct conflict with the “proper execution” of her duties; and her actions on the date of the incident were in her own best interest and “[took] advantage of her position as [building principal].”

In Count 3, Complainants assert that on January 8, 2019, Respondent made “contradictory as well as alarming statements” to Mrs. Esposito when speaking on the phone regarding the children and the incident. More specifically, Complainants contend that

Respondent told Mrs. Esposito that one of the children (A) refused to eat until the child spoke with her, then during another conversation, Respondent told Mrs. Esposito that the children were eating the entire time. Respondent also told Mrs. Esposito that the children were “aggressive, disrespectful, team[ing] up against her, refus[ing] to listen,” and that they were eating their lunch when they were not. Complainants assert Respondent violated *N.J.S.A. 18A:12-24(a)* and *N.J.S.A. 18A:12-24(c)* because her “contradicting statements showed that she changed her account of the facts of the incident to benefit herself when confronted by” Mrs. Esposito’s questions; her actions and comments are in direct conflict with her duties as building principal; her “comments showed that the lens she was viewing the incident through was one that suited her and was only in her best interests,” and not that of Complainants’ children; her views were “used to justify her egregious behavior towards minors; the “verbiage” she used (“teamed up against me”) “clearly exhibits [she] was not thinking as a [building] principle [sic] should” and she “engaged 9 year old 3rd graders in an adult discussion, which was only for her benefit, forcing them to choose between their father[’]s directive and hers.”

In Count 4, Complainants assert that on January 8, 2019, when Mr. Esposito went to the school “to remove their children from the hostile environment,” Respondent made several attempts to direct Mr. Esposito into her office. Mrs. Esposito could hear the interaction (between her husband and Respondent) because she was still on the telephone with Respondent. According to Complainants, Mr. Esposito stated to Respondent, “you keep approaching me, I don’t want to talk to you.” Ultimately, after several back and forth disagreements, Mr. Esposito was able to leave with both of his children. Complainants assert that Respondent violated *N.J.S.A. 18A:12-24(a)* and *N.J.S.A. 18A:12-24(c)* because her actions on the day of the incident conflict with her alleged statement to the Superintendent; her conversation with Mrs. Esposito impaired her objectivity and judgment when interacting with Mr. Esposito; her actions and statements were motivated by her own self-interests and deflected from her “egregious treatment of minors in her care”; she abused her position as building principal to give herself “undue advantages”; and she acted in her own best interest and “deflected the focus from her actions.”

In Count 5, Complainants assert that on January 10, 2019, and after receiving an email from the Superintendent informing them that the children must attend school (email regarding “compulsory education”), Mrs. Esposito brought the children to school to find Respondent standing in front of the school. Complainants further assert that video from that day indicates that Respondent stayed in front of the school, past the start of the school day, until Mrs. Esposito left the school premises. According to Complainants, Respondent’s presence outside at drop off/pick up is unusual. Complainants contend that Respondent violated *N.J.S.A. 18A:12-24(a)*, *N.J.S.A. 18A:12-24(c)*, and *N.J.S.A. 18A:12-24(d)* because she engaged “the services” of the security guard and showed prejudice toward the family; her actions were “self-serving and in no way a benefit of [the] children”; she “disregarded all concerns for [their children], acted with impaired judgement and could have incited another incident; and she acted in direct conflict with her role as a principal “who [Complainants] entrusted [the] children to each day.”

In Count 6, Complainants assert that they reported multiple incidents of bullying and inappropriate behavior and Respondent did not “follow up” on the reports. In addition, Complainants take offense to Respondent referring to herself as “the boss.” Complainants assert Respondent violated *N.J.S.A. 18A:12-24(a)* and *N.J.S.A. 18A:12-24(c)* because “the verbiage

[Respondent] likes to be called and calls herself is not in anyones [sic] interest except her own”; the “lack of incident documentation is only in [Respondent’s] best interest; the “lack of transparency of school incidents minimize accountability of her and her staff”; and she “continues to negate or act in a manner that contradicts her duties as the [building principal].”

### **B. *Motion to Dismiss and Allegation of Frivolous Filing***

Following receipt of the Complaint, Respondent filed a Motion to Dismiss and allegation of frivolous filing. Respondent argues that Complainants “fail to allege facts which, if true, could support a finding that [Respondent] violated” *N.J.S.A. 18A:12-24(a)*, *N.J.S.A. 18A:12-24(c)* and/or *N.J.S.A. 18A:12-24(d)*. Respondent further argues that Complainants “blindly assert” these allegations because they were dissatisfied with the results of the HIB investigation regarding the incident that occurred on January 8, 2019. Respondent further argues that Complainants did not offer any facts to support the allegation that Respondent was engaged in a business transaction or professional activity which is in substantial conflict with the proper discharge of her duties (*N.J.S.A. 18A:12-24(a)*), acted in her official capacity in a matter where she or a member of her immediate family had a personal involvement that created some benefit to her or to a member of her immediate family (*N.J.S.A. 18A:12-24(c)*), or undertook any employment or service which might reasonably be expected to prejudice her independence of judgment in the exercise of her official duties (*N.J.S.A. 18A:12-24(d)*).

Finally, Respondent asserts that the Complaint is frivolous because Complainants misinterpreted the facts, filed their Complaint in bad faith, and knew or should have known that the Complaint was without any reasonable basis in law or equity.

### **C. *Response to Motion to Dismiss and Allegation of Frivolous Filing***

In response to the Motion to Dismiss and allegation of frivolous filing, Complainants reaffirm their allegations, dispute Respondent’s account of the incident, and maintain that her (Respondent’s) account is a “GROSS UNTRUTH” and they are stronger in their convictions. Complainants assert that Mrs. Esposito heard the entire interaction because she was still on the “open phone line” while the incident was occurring. Complainants maintain that Respondent’s “actions and untruths are egregious” and that “this is a clear breach of her duties and abuse of her power, skewing fact in her favor, and notarized testimony which is FALSE, UNTRUE AND A BLATANT LIE.” They request the SEC hold a hearing to address Respondent’s actions.

## **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 (Complainants), and determine whether the allegation(s), if true, could establish a violation 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 Complainants have alleged sufficient facts which, if true, could support a finding that

Respondent violated *N.J.S.A.* 18A:12-24(a) as alleged in Counts 1-6, violated *N.J.S.A.* 18A:12-24(c) as contended in Counts 1-6, and/or violated *N.J.S.A.* 18A:12-24(d) as asserted in Count 5.

**B. *Allegations of Prohibited Acts***

In their Complaint, Complainants allege that Respondent violated *N.J.S.A.* 18A:12-24(a) (Counts 1-6), *N.J.S.A.* 18A:12-24(c) (Counts 1-6), and *N.J.S.A.* 18A:12-24(d) (Count 5). These provisions of the Act provide:

a. No school official or member of her immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of her duties in the public interest;

c. No school official shall act in her official capacity in any matter where he, a member of her immediate family, or a business organization in which she has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair her objectivity or independence of judgment. No school official shall act in her official capacity in any matter where she or a member of her immediate family has a personal involvement that is or creates some benefit to the school official or member of her immediate family;

d. No school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice her independence of judgment in the exercise of her official duties;

Before more fully addressing the allegations in each Count, the Commission wishes to clarify that its jurisdiction is limited to enforcing the provisions of the Act, *N.J.S.A.* 18A:12-21 *et seq.*, a set of minimum ethical standards by which all school officials must abide. The Commission has jurisdiction only over matters arising under the Act, and it may not receive, hear, or consider any pleadings, motion papers, or documents of any kind relating to any matter that does not arise under the Act. *N.J.A.C.* 6A:28-1.4(a).

With the above in mind, to the extent that Complainants seek a determination from the Commission that the District and/or Respondent (1) violated or failed to comply with an applicable Board policy(ies) and/or regulation(s) relating to the issues set forth in the Complaint; (2) failed to establish a Board policy(ies) and/or regulation(s) which they (Complainants) believe to be appropriate, e.g., an “alternative indoor recess policy for sick or injured children”; or (3) failed to abide by an alleged “past precedence,” such determinations are outside the scope, authority, and jurisdiction of the Commission but may be actionable in other venues.

***Alleged Violations of N.J.S.A. 18A:12-24(a)  
(Counts 1-6)***

To credit the alleged violations of *N.J.S.A.* 18A:12-24(a) in Counts 1-6, the Commission must find evidence that Respondent, or a member of her immediate family, has an interest in a

business organization, or engaged in any business, transaction, or professional activity which was in substantial conflict with the proper discharge of her duties in the public interest.

In **Count 1**, Complainants allege Respondent violated *N.J.S.A. 18A:12-24(a)* because she directly engaged in behavior which is in conflict with the proper execution of her role as principal; engaged minors in an adult discussion and breached the school's Civility Policy; took advantage of her position by refusing to "immediately call" Complainants, even after multiple requests by the children were made; acted in her own best interest, not that of the children's throughout the incident; and "her actions instilled fear in [the] children and her personal need to impose her will on [the] children made her loose [sic] her objectivity and clouded her judgement when dealing with two minors."

In **Count 2**, Complainants argue Respondent violated *N.J.S.A. 18A:12-24(a)* because she did not address or accommodate the needs of their (Complainants') students who attend the school; her refusal to have an alternative to outdoor recess was in her and the school's best interest to save money (and not in the best interest of Complainants' children); her contradictory behavior (occasionally choosing to contact Complainants when their children said they did not want to go outside for recess) was in direct conflict with the "proper execution" of her duties; and her actions on the date of the incident were in her own best interest and "[took] advantage of her position as [building principal]."

In **Count 3**, Complainants contend Respondent violated *N.J.S.A. 18A:12-24(a)* because her "contradicting statements showed that she changed her account of the facts of the incident to benefit herself when confronted by" Mrs. Esposito's questions; her actions and comments are in direct conflict with her duties as building principal; her "comments showed that the lens she was viewing the incident through was one that suited her and was only in her best interests," and not that of Complainants' children; her views were "used to justify her egregious behavior towards minors; the "verbiage" she used ("teamed up against me") "clearly exhibits [she] was not thinking as a [building] principle [sic] should" and she "engaged 9 year old 3rd graders in an adult discussion, which was only for her benefit, forcing them to choose between their father[']s directive and hers."

In **Count 4**, Complainants assert Respondent violated *N.J.S.A. 18A:12-24(a)* because her actions on the day of the incident conflict with her alleged statement to the Superintendent; her conversation with Mrs. Esposito impaired her objectivity and judgment when interacting with Mr. Esposito; her actions and statements were motivated by her own self-interests and deflected from her "egregious treatment of minors in her care"; she abused her position as building principal to give herself "undue advantages"; and she acted in her own best interest and "deflected the focus from her actions."

In **Count 5**, Complainants claim Respondent violated *N.J.S.A. 18A:12-24(a)* because she engaged "the services" of the security guard and showed prejudice toward the family; her actions were "self-serving and in no way a benefit of [the] children"; she "disregarded all concerns for [their children], acted with impaired judgement and could have incited another incident; and she acted in direct conflict with her role as a principal "who [Complainants] entrusted [the] children to each day."

In **Count 6**, Complainants allege Respondent violated *N.J.S.A. 18A:12-24(a)* because “the verbiage [Respondent] likes to be called and calls herself is not in anyones [sic] interest except her own”; the “lack of incident documentation is only in [Respondent’s] best interest; the “lack of transparency of school incidents minimize accountability of her and her staff”; and she “continues to negate or act in a manner that contradicts her duties as the [building principal].”

In response to the alleged violations of *N.J.S.A. 18A:12-24(a)* in Counts 1-6, Respondent counters that Complainants “fail to allege facts which, if true, could support a finding that [Respondent] violated” *N.J.S.A. 18A:12-24(a)*. Respondent further argues that Complainants did not offer any facts to support the allegation that Respondent was engaged in a business transaction or professional activity which is in substantial conflict with the proper discharge of her duties. Furthermore, Respondent maintains that she acted appropriately at all times, and the Complaint is “completely void” of any facts that would support the allegations that Respondent violated *N.J.S.A. 18A:12-24(a)* as alleged in Counts 1-6.

After review of the Complaint, the Commission finds that even if the facts as alleged are proven true by sufficient credible evidence, they would not support a finding that Respondent violated *N.J.S.A. 18A:12-24(a)* as alleged in Counts 1-6. There are no facts offered in Counts 1-6 which suggest, or establish, that Respondent or a member of her immediate family had an “interest” in a business organization.<sup>1</sup> In addition, because the allegations in this Count relate to duties and responsibilities within the authority of the building principal, there are no facts presented in Counts 1-6 which indicate that Respondent engaged in a “business, transaction, or professional activity” that was in substantial conflict with the proper discharge of her duties as the building principal. It is clear that Complainants take umbrage with the manner in which Respondent conducted (and conducts) herself as the building principal, but disagreement with the decisions and/or actions taken by Respondent in her capacity as the building principal cannot serve as the basis for violations of *N.J.S.A. 18A:12-24(a)* based on the facts as presented in Counts 1-6; however, Complainants are free to pursue such a claim(s) in a more appropriate venue. Therefore, the Commission finds that the alleged violations of *N.J.S.A. 18A:12-24(a)* in Counts 1-6 should be dismissed.

***Alleged Violations of N.J.S.A. 18A:12-24(c)***  
***(Counts 1-6)***

In order to credit the alleged violations of *N.J.S.A. 18A:12-24(c)* in Counts 1-6, the Commission must find evidence that Respondent acted in her official capacity in a matter where she, or a member of her immediate family, had a direct or indirect financial involvement that might reasonably be expected to impair her objectivity, or in a matter where she had a personal involvement that created some benefit to her, a member of her immediate family, or to “others.”

---

<sup>1</sup> Pursuant to *N.J.S.A. 18A:12-23*, “interest” means the ownership or control of more than 10% of the profits, assets, or stock of a business but shall not include the control of assets in a labor union.

In **Count 1**, Complainants allege Respondent violated *N.J.S.A. 18A:12-24(c)* because she directly engaged in behavior which is in conflict with the proper execution of her role as principal; engaged minors in an adult discussion and breached the school's Civility Policy; took advantage of her position by refusing to "immediately call" Complainants, even after multiple requests by the children were made; acted in her own best interest, not that of the children's throughout the incident; and "her actions instilled fear in [the] children and her personal need to impose her will on [the] children made her loose [sic] her objectivity and clouded her judgement when dealing with two minors."

In **Count 2**, Complainants argue Respondent violated *N.J.S.A. 18A:12-24(c)* because she did not address or accommodate the needs of their (Complainants') students who attend the school; her refusal to have an alternative to outdoor recess was in her and the school's best interest to save money (and not in the best interest of Complainants' children); her contradictory behavior (occasionally choosing to contact Complainants when their children said they did not want to go outside for recess) was in direct conflict with the "proper execution" of her duties; and her actions on the date of the incident were in her own best interest and "[took] advantage of her position as [building principal]."

In **Count 3**, Complainants contend Respondent violated *N.J.S.A. 18A:12-24(c)* because her "contradicting statements showed that she changed her account of the facts of the incident to benefit herself when confronted by" Mrs. Esposito's questions; her actions and comments are in direct conflict with her duties as building principal; her "comments showed that the lens she was viewing the incident through was one that suited her and was only in her best interests," and not that of Complainants' children; her views were "used to justify her egregious behavior towards minors; the "verbiage" she used ("teamed up against me") "clearly exhibits [she] was not thinking as a [building] principle [sic] should" and she "engaged 9 year old 3rd graders in an adult discussion, which was only for her benefit, forcing them to choose between their father[']s directive and hers."

In **Count 4**, Complainants assert Respondent violated *N.J.S.A. 18A:12-24(c)* because her actions on the day of the incident conflict with her alleged statement to the Superintendent; her conversation with Mrs. Esposito impaired her objectivity and judgment when interacting with Mr. Esposito; her actions and statements were motivated by her own self-interests and deflected from her "egregious treatment of minors in her care"; she abused her position as building principal to give herself "undue advantages"; and she acted in her own best interest and "deflected the focus from her actions."

In **Count 5**, Complainants claim Respondent violated *N.J.S.A. 18A:12-24(c)* because she engaged "the services" of the security guard and showed prejudice toward the family; her actions were "self-serving and in no way a benefit of [the] children"; she "disregarded all concerns for [their children], acted with impaired judgement and could have incited another incident; and she acted in direct conflict with her role as a principal "who [Complainants] entrusted [the] children to each day."

In **Count 6**, Complainants allege Respondent violated *N.J.S.A. 18A:12-24(c)* because "the verbiage [Respondent] likes to be called and calls herself is not in anyones [sic] interest



except her own”; the “lack of incident documentation is only in [Respondent’s] best interest; the “lack of transparency of school incidents minimize accountability of her and her staff”; and she “continues to negate or act in a manner that contradicts her duties as the [building principal].”

Regarding the alleged violations of *N.J.S.A.* 18A:12-24(c) in Counts 1-6, Respondent counters that Complainants “fail to allege facts which, if true, could support a finding that [Respondent] violated” *N.J.S.A.* 18A:12-24(c). Respondent acted in her official capacity in a matter where she or a member of her immediate family had a personal involvement that created some benefit to her or to a member of her immediate family. Moreover, Respondent maintains that she acted appropriately at all times, and the Complaint is “completely void” of any facts that would support the allegations that Respondent violated *N.J.S.A.* 18A:12-24(c) as contended in Counts 1-6.

Based on its review of the Complaint, the Commission finds that even if the facts as alleged are proven true by sufficient credible evidence, they would not support a finding that Respondent violated *N.J.S.A.* 18A:12-24(c) as contended in Counts 1-6. There are no facts in the Complaint which support any suggestion that Respondent or a member of her immediate family had a direct or indirect financial involvement in any of the issues/matters referenced in Counts 1-6. There is also nothing in Counts 1-6 which establishes that Respondent had a “personal” involvement in the matters/issues discussed in the Complaint that created some benefit to her or to others. The fact that the actions taken by Respondent may not have been favorable to Complainants (or to their children) does not mean, in and of itself, that Respondent received a personal benefit that is tantamount to an ethics violation. In this way, and without any facts to establish how Respondent’s involvement was anything other than routine, how she had a personal (not professional) involvement or interest, or how she benefited (personally), the Commission finds that the alleged violations of *N.J.S.A.* 18A:12-24(c) in Counts 1-6 should be dismissed. To the extent that Complainants believe that certain actions by Respondent may have violated an applicable Board policy and/or regulation, they are free to pursue those claims in a more appropriate venue.

***Alleged Violation of N.J.S.A. 18A:12-24(d)***  
***(Count 5)***

To credit the alleged violation of *N.J.S.A.* 18A:12-24(d) in Count 5 the Commission must find evidence that Respondent engaged in employment or service, regardless of whether compensated, which might reasonably be expected to prejudice her independence of judgment in the exercise of her official duties.

In **Count 5**, Complainants claim Respondent violated *N.J.S.A.* 18A:12-24(d) because she engaged “the services” of the security guard and showed prejudice toward the family; her actions were “self-serving and in no way a benefit of [the] children”; she “disregarded all concerns for [their children], acted with impaired judgement and could have incited another incident; and she acted in direct conflict with her role as a principal “who [Complainants] entrusted [the] children to each day.”

Respondent counters that Complainants “fail to allege facts which, if true, could support a finding that [Respondent] violated” *N.J.S.A.* 18A:12-24(d). Respondent further argues that Complainants did not offer any facts to support the allegation that Respondent undertook any employment or service which might reasonably be expected to prejudice her independence of judgment in the exercise of her official duties. Furthermore, Respondent maintains that she acted appropriately at all times, and the Complaint is “completely void” of any facts that would support the allegations that Respondent violated *N.J.S.A.* 18A:12-24(d) as asserted in Count 5.

After review of the Complaint, the Commission finds that even if the facts as alleged are proven true by sufficient credible evidence, they would not support a finding that Respondent violated *N.J.S.A.* 18A:12-24(d). The crux of Complainants’ argument is that by engaging the services of a security guard, and for this individual to be present at student drop-off, Respondent acted in a matter where her independence of judgment was prejudiced. Other than disagreeing with the decision to have a security guard present at student drop-off, Complainants have not provided sufficient facts to explain how Respondent’s decision, without more, constituted engagement in employment or service that might reasonably be expected to prejudice her independence of judgment. As the building principal, it is Respondent’s duty and responsibility to ensure the health, safety, and well-being of all students, and the hiring of personnel to be present outside of school when students are present does not, without more, explain how Respondent engaged in any behavior which could potentially be violative of the Act. Therefore, the Commission finds that the alleged violation of *N.J.S.A.* 18A:12-24(d) in Count 5 should be dismissed.

Accordingly, and granting all inferences in favor of the non-moving party (Complainants), the Commission has determined to **grant** the Motion to Dismiss in its entirety because Complainants failed to plead sufficient, credible facts to support a finding that Respondent violated *N.J.S.A.* 18A:12-24(a) as alleged in Counts 1-6, violated *N.J.S.A.* 18A:12-24(c) as contended in Counts 1-6, and/or violated *N.J.S.A.* 18A:12-24(d) as asserted in Count 5.

#### **IV. Request for Sanctions**

At its meeting on August 27, 2019, the Commission considered Respondent’s request that the Commission find the Complaint frivolous, and impose sanctions pursuant to *N.J.S.A.* 18A:12-29(e). Despite Respondent’s argument, the Commission cannot find evidence that might show that Complainants filed the Complaint in bad faith or solely for the purpose of harassment, delay, or malicious injury. The Commission also does not have information to suggest that Complainants knew or should have known that the Complaint was without any reasonable basis in law or equity, or that it could not be supported by a good faith argument for an extension, modification or reversal of existing law. *N.J.A.C.* 6A:28-1.2. Therefore, at its meeting on September 24, 2019, the Commission voted to find the Complaint not frivolous, and to deny the request for sanctions.

#### **V. Decision**

Based on the foregoing, and in reviewing the facts in the light most favorable to the non-moving party (Complainants), the Commission voted to **grant** the Motion to Dismiss in its

entirety because Complainants failed to plead sufficient, credible facts to support a finding that Respondent violated *N.J.S.A.* 18A:12-24(a) as alleged in Counts 1-6, violated *N.J.S.A.* 18A:12-24(c) as contended in Counts 1-6, and/or violated *N.J.S.A.* 18A:12-24(d) as asserted in Count 5. The Commission also voted to find that the Complaint is not frivolous, and to deny Respondent's request for sanctions.

Pursuant to *N.J.S.A.* 18A:12-29(b), the Commission hereby notifies Complainants and Respondent 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: September 25, 2019

**Resolution Adopting Decision  
in Connection with C39-19**

**Whereas**, at its meeting on August 27, 2019, the School Ethics Commission (Commission) considered the Complaint, the Motion to Dismiss in Lieu of Answer (Motion to Dismiss) and allegation of frivolous filing, and the response to the Motion to Dismiss and allegation of frivolous filing submitted in connection with the above-referenced matter; and

**Whereas**, at its meeting on August 27, 2019, the Commission discussed granting the Motion to Dismiss in its entirety for failure to plead sufficient, credible facts to support the allegations that Respondent violated *N.J.S.A.* 18A:12-24(a) as alleged in Counts 1-6, violated *N.J.S.A.* 18A:12-24(c) as contended in Counts 1-6, and/or violated *N.J.S.A.* 18A:12-24(d) as asserted in Count 5; and

**Whereas**, at its meeting on August 27, 2019, the Commission discussed finding the Complaint not frivolous, and denying Respondent's request for sanctions; and

**Whereas**, at its meeting on September 24, 2019, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on August 27, 2019; 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 September 24, 2019.

---

Kathryn A. Whalen, Director  
School Ethics Commission