

Before the School Ethics Commission
Docket No.: C23-20
Decision on Motion to Dismiss

Thomas J. Glavin,
Complainant

v.

James Hirschfeld,
Mountain Lakes Board of Education, Morris County,
Respondent

I. Procedural History

This matter arises from a Complaint that was filed on May 26, 2020, by Thomas J. Glavin (Complainant), alleging that James Hirschfeld (Respondent), a member of the Mountain Lakes Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* By correspondence dated May 26, 2020, Complainant was notified that the Complaint was deficient, and required amendment before the School Ethics Commission (Commission) could accept his filing. On June 8, 2020, Complainant 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:12-24.1(b) and *N.J.S.A.* 18A:12-24.1(e) of the Code of Ethics for School Board Members (Code) in Count 1, and violated *N.J.S.A.* 18A:12-24.1(g) of the Code in Count 2.

On June 9, 2020, the Complaint was served on Respondent, via electronic mail, notifying him that charges were filed against him with the Commission, and advising that he had twenty (20) days to file a responsive pleading.¹ On July 10, 2020, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and on August 5, 2020, Complainant filed a response to the Motion to Dismiss.

The parties were notified by correspondence dated September 21, 2020, that this matter would be placed on the Commission's agenda for its meeting on September 29, 2020, in order to make a determination regarding the Motion to Dismiss. At its meeting on September 29, 2020, the Commission considered the filings in this matter and, at its meeting on October 27, 2020, 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 Respondent violated *N.J.S.A.* 18A:12-24.1(b) and *N.J.S.A.* 18A:12-24.1(e) as alleged in Count 1, and/or violated *N.J.S.A.* 18A:12-24.1(g) as argued in Count 2.

¹ Due to the ongoing Coronavirus (COVID-19) pandemic, service of process was effectuated by the Commission through electronic transmission only.

II. Summary of the Pleadings/Public Comment

A. *The Complaint*

By way of background, Complainant states that the Lake Drive School for the Deaf (Lake Drive) is one of four schools within the Mountain Lakes School District (District). Students from the Lake Drive can receive mainstream education at any of the District's other schools. One of the topics discussed at the Board's meeting on April 27, 2020, was "the proper allocation of [District's] expenses to the [Lake Drive] program." During this meeting, Respondent "knowingly made several inaccurate and discriminatory statements about the [Lake Drive] students." More specifically, and in an attempt to convince the other members of the Board "that additional expenses should be paid by the [Lake Drive] as a result of [its] students attending" the District's high school, Respondent "knowingly and falsely stated that the [Lake Drive] students were responsible for a large number of disciplinary problems and have been disproportionately involved in [Harassment, Intimidation, and Bullying (HIB)] related cases." Respondent further stated that the "HIB-related investigations involving the [Lake Drive] students were taking an inordinate amount of time from the [high school] Vice Principal," and as such, the Lake Drive needed to be charged a much higher portion of the high school Vice Principal's salary. Complainant asserts Respondent's "very intentional statement" was "completely unfounded and is not supported by facts." Complainant further asserts Respondent "reinforced his argument by sharing his understanding that a small number of the [Lake Drive] students at [the high school] cause a significant number of issues by comparing them to a child that is not 'easy' and 'takes all of the parents' time and energy.'" Complainant maintains that Respondent's statements about the Lake Drive students "reflect prejudice against special needs students."

Based on the facts as set forth above, Complainant alleges, in Count 1 of his Complaint, that at the Board meeting on April 27, 2020, Respondent "falsely asserted" that the high school Vice Principal "handles an inordinate amount of HIB-related problems caused by the [Lake Drive] students," and also stated, without adequate factual support, "that a small percentage of special needs [students from Lake Drive] create a significant amount of disciplinary and other issues at the [high school] to convince the Board to charge a larger share of [the high school's] expenses to the [Lake Drive]." Complainant alleges that Respondent's statements violated *N.J.S.A.* 18A:12-24.1(b) because the labeling of the Lake Drive students as "having extraordinary behavior issues causing large cases of HIB ... investigations" at the high school is not factual and is discriminatory, and "[s]ingling out a group of students [by] categorizing them as troubled students is prejudice[d] and discriminatory." In addition, and by stating, "These are kids who need a lot of attention and so I think to not be attributing and to only do it on a percentage basis misses the nuances of the actual time that the staff members are spending," Complainant asserts that Respondent violated *N.J.S.A.* 18A:12-24.1(b) because all students are afforded free education rights, and this right does not distinguish or discriminate between individual or a group of students' physical, emotional, and behavioral needs. The rights of the Lake Drive students were "violated" when Respondent made discriminatory statements about their abilities in order to "justify his assertion of assigning additional [District] expenses to the Lake Drive ..." Finally, Complainant alleges that Respondent violated *N.J.S.A.* 18A:12-24.1(e) because he made "disparaging and discriminatory statements against the Lake Drive ... students on a personal level based on their disabilities and false[ly] assert[ed] that this group of students ha[s] extraordinary behavior problems."

In Count 2, Complainant argues that Respondent violated *N.J.S.A.* 18A:12-24.1(g) because he made statements that lacked a sufficient factual basis. According to Complainant, Respondent “did not conduct the [HIB] investigation[s] or the administration of the HIB cases,” and his statements are not based on “factual information.” Because his statements lacked factual support, Respondent “took private action in making discriminatory statements that could compromise the ... District and the ... Board ... and its members from potential lawsuits and any violation of Federal and State law.”

B. *Motion to Dismiss*

Following receipt of the Complaint, Respondent filed a Motion to Dismiss and argues that Complainant did not offer “sufficient facts to support a finding that [Respondent] has violated” *N.J.S.A.* 18A:12-24.1(b), *N.J.S.A.* 18A:12-24.1(e), and/or *N.J.S.A.* 18A:12-24.1(g).

More specifically, and regarding the alleged violations of *N.J.S.A.* 18A:12-24.1(b), Respondent argues that the “Complaint does not specifically identify any decision that [Respondent] made contrary to the educational welfare of children,” and “does not present any evidence that [Respondent] took a specific action to obstruct any program or policy designed to meet the needs of all children.” Instead, Respondent “made a statement as a member of the Board ... on a topic of discussion the Board was having at the time.” Although his statements “could be deemed insensitive, and he later apologized publicly for same,” they do not “constitute a ‘decision contrary to the welfare of the District’s students, or ‘deliberate action’ that obstructed District programs or policies.” According to Respondent, although Complainant may not like Respondent’s personal opinions, it is not true, as Complainant notes, that Respondent’s statements “were made without adequate factual support to convince the Board to charge a larger share of its expenses to the [Lake Drive] school,” and “it is irrelevant to the determination of whether the statements constituted a ‘decision’ or ‘deliberate action’ sufficient to be a violation of the Act.” Respondent further argues that he was “clearly giving his opinion” as a Board member and he did not state “his opinion is also that of the [Board].” His statements did not “reveal any confidential or inaccurate information of the Board ...,” and the Complaint does not allege that Respondent’s personal opinions about public commentary compromised the Board or revealed confidential information. Therefore, Respondent asserts that the alleged violations of *N.J.S.A.* 18A:12-24.1(b) should be dismissed.

As for the alleged violation of *N.J.S.A.* 18A:12-24.1(e), Respondent argues that Complainant did not provide any evidence or facts that Respondent made “a personal promise” or took “action beyond the scope of his duties that could have compromised the Board.” Instead, Respondent submits he “was simply clarifying his understanding of an issue that was being discussed by the Board.” According to Respondent, the Lake Drive is an “independently operating school within the District, and is theoretically ‘budget neutral.’” For those students who attend the Lake Drive, a tuition rate is set by the Board. As such, Respondent “was simply discussing a budgetary issue that arose for the District for the 2020-2021 school year, which is clearly within the scope of his role as a” Board member. Respondent reiterates that “the factual accuracy” of his statements is “irrelevant to the determination of whether or not he was making a ‘personal promise’ or ‘taking action’ beyond the scope of his duties.” As such, the alleged violation of *N.J.S.A.* 18A:12-24.1(e) should be dismissed.

Regarding a violation of *N.J.S.A.* 18A:12-24.1(g), Respondent maintains that Complainant did not provide evidence to establish that Respondent “took action to publicize information that was not public, or confidential in nature.” According to Respondent, his statements “clearly” did not “injure any individuals or the schools, as no specific individuals or HIB incidents were named or confidential information revealed.” Furthermore, Complainant did not provide any evidence that Respondent’s statements “were inaccurate” and if they were inaccurate, Complainant did not provide any evidence that “such a mistake was ‘unreasonable.’” Therefore, the alleged violation of *N.J.S.A.* 18A:12-24.1(g) should also be dismissed.

C. Response to Motion to Dismiss

In response to the Motion to Dismiss, Complainant reiterates that Respondent “knowingly made false and highly discriminatory statements to sway the vote of the Board to overcharge Lake Drive and the districts that send students to Lake Drive.” Complainant reaffirms that at the Board meeting, Respondent “argued that disabled students should bear a larger share of the District’s administrative expenses because they (to paraphrase [Respondent’s] explanation) historically have created more problems for school administration than non-disabled students.” Complainant argues that Respondent’s defense that he was offering his “opinion” is false. Respondent “took deliberate action to obstruct the Lake Drive program through his discriminatory and false statement.” According to Complainant, Respondent “prefaced” his statement by responding to another Board member stating, “You haven’t been on the Board as long as I have but for instance if you take a look at HIB evaluations ... a large percentage of the HIB investigations involve the students who are from the program (Lake Drive School for the Deaf).” In doing so, Respondent “relied on his prior experience as a [Board member] as the source of his ‘information.’” Respondent made this “false statement of fact” with the intention of convincing the Board to cast a vote that would “disadvantage disabled children” and in doing so, he made a decision and took deliberate action to “obstruct the Lake Drive program.” In addition to Respondent’s discriminatory statements at the April 21, 2020, Board meeting, Respondent was the only member to vote “No” on May 4, 2020, to the budget “because he disagreed with the allocation of the [District] expenses to the [Lake Drive],” continuing his “discriminatory position.” Therefore, Complainant maintains the alleged violations of *N.J.S.A.* 18A:12-24.1(b) should not be dismissed.

Regarding the alleged violation of *N.J.S.A.* 18A:12-24.1(e), Complainant argues that Respondent’s “extremely hurtful discriminatory” statements were “private action” that “compromised the Board.” According to Complainant, Respondent has “damaged the reputation and public perception of the Board as a fair and non-biased decision-making body.” Complainant maintains that “as a result” of Respondent’s statements made at the April 21, 2020, meeting, the Board President “apologize[d] to the public” at the May 2, 2020, Board meeting for “not stopping [Respondent] and the discriminatory statements he made.” The principal of the Lake Drive also “condemned [Respondent’s] words and actions” at the May 2, 2020, meeting. Ultimately, at this same meeting, Respondent also apologized. Complainant further maintains that “it is [his] understanding” that Board members may voice their opinions as long as they issue a disclaimer that discloses the opinion is their own, not the opinion of the Board; the information is accurate and not confidential; and it does not compromise the Board. According to Complainant, Respondent did not “identify to the Board and the public that he wanted to express his [opinions] when he spoke about the problems and HIB investigations allegedly caused by

hard of hearing students.” In addition, his statements were not accurate, and he disclosed confidential information related to the “type of students who allegedly have been the cause of ‘large of percentage’ (sic) of HIB investigations.” Respondent “greatly compromised” the Board when he offered his “opinion” that “hard of hearing students cause a lot of HIB problems and create an inordinate amount of work for the administration.”

In support of his position, Complainant cites *I/M/O Eileen Quinn, C45-04, 2/7/2005* (C45-04), in which the Commission found that Respondent violated *N.J.S.A. 18A:12-24.1(e)* because she printed and distributed material during her campaign that contained incomplete fiscal information. In that case, the Commission determined that Respondent “took private action that compromised the Board.” Similarly, in this matter, Respondent “made a misleading statement prior to the passage of the budget.”

In addition, Complainant asserts that Respondent should not be allowed to “hide behind the First Amendment.” According to Complainant, the First Amendment has “limits and exclusions,” namely, “a false statement of fact.” Respondent made “false and discriminatory statements,” and never noted that the statements were his “opinions.”

As for the violation of *N.J.S.A. 18A:12-24.1(g)*, Complainant reiterates that Respondent revealed confidential information regarding HIB investigations and named the Lake Drive students as the student population who “are involved in a large number of HIB investigations.” Respondent’s representations were inaccurate and “clearly went against the core intent of the [Act].” Complainant asserts that Respondent’s conduct “violated public trust and revealed his bias against one of the most vulnerable groups of students.” Therefore, Complainant requests that the Commission deny Respondent’s Motion to Dismiss.

D. *Public Comments Offered by Complainant at the Commission’s Meeting on September 29, 2020*

Complainant appeared, by telephone, for the Commission’s meeting on September 29, 2020, and offered the following statement during public comment:

My name is Thomas Glavin, and I am the author of [C]omplaint C23-20 against 5-year Mountain Lakes Board of Education member James Hirschfeld.

I come before you to urge you to NOT DISMISS the case against [Respondent] but to pursue it fully. I do not have a child in the Lake Drive School for The Deaf but I do have a younger brother with severe hearing disabilities. I wrote the complaint on behalf of the Lake Drive School students who were grossly discriminated against and the Lake Drive School staff members who have expressed to me that they are scared to file a complaint against a [Board] member, who has approval rights over their employment contracts.

I am not going to discuss the case in detail, as I believe I have laid out my case to the best of my ability in my response to [Respondent’s] Motion [t]o Dismiss.

I do want to make you aware that in a recent [Open Public Records Act (OPRA)] request of emails, during the exact time covering this complaint between [Board]

members and a small group of [Mountain Lakes] residents claiming to be financial experts, provided to me this past week, contained further evidence in support of my case that [Respondent] was deceitfully working behind the scene with community members in undermining the former Acting Superintendent, the former Business Administrator, and against his own fellow board members on the Finance Committee. In fact, the OPRA emails, and attachments, provided evidence that confidential specific Lake Drive School student's individual class information was accessed illegally to help [Respondent] justify his position in penalizing the Lake Drive School students and to manipulate higher costs to their budget.

[Respondent] already has an ethics complaint case (C45-18) against him where Asian students were wrongfully harassed, intimidated and wrongfully penalized.

Now [Respondent] has gone after our most vulnerable student population at the Lake Drive School for the Deaf here in Mountain La[k]es.

Please do not make the Lake Drive School students victims of wrongful discrimination. As the ... Commission please investigate this case vigorously to defend the integrity of our public education system and hold people like [Respondent] responsible for their actions.

Complainant additionally thanked the Commission for its consideration, and looked forward to receipt of its decision.

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 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 alleged sufficient facts which, if true, could support a finding that Respondent violated *N.J.S.A. 18A:12-24.1(b)* and *N.J.S.A. 18A:12-24.1(e)* as argued in Count 1, and/or violated *N.J.S.A. 18A:12-24.1(g)* as contended in Count 2.

B. *Alleged Code Violations*

In the Complaint, Complainant alleges that Respondent violated *N.J.S.A. 18A:12-24.1(b)* and *N.J.S.A. 18A:12-24.1(e)* in Count 1, and violated *N.J.S.A. 18A:12-24.1(g)* in Count 2. 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.

- e. I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.
- g. I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

Before more fully addressing the allegations in the Complaint, the Commission notes that its authority is limited to enforcing the Act, *N.J.S.A. 18A:12-21 et seq.*, a set of minimum ethical standards by which all school officials must abide. In this regard, the Commission only has jurisdiction over matters arising under the Act, and it may not receive, hear, or consider any matter that does not arise under the Act, *N.J.A.C. 6A:28-1.4(a)*. Therefore, to the extent that Complainant seeks a determination from the Commission that Respondent's statements at a public Board meeting were slanderous, defamatory, and/or discriminatory, the Commission notes that such a determination falls outside the scope of its authority and jurisdiction. Nonetheless, if Complainant can establish that the statements made by Respondent were slanderous, defamatory, and/or discriminatory, he may be able to pursue those claims in the appropriate forum.

Count 1

In Count 1, Complainant asserts that Respondent violated *N.J.S.A. 18A:12-24.1(b)* because the labeling of the Lake Drive students as "having extraordinary behavior issues causing large cases of HIB ... investigations" at the high school is not factual and is discriminatory, and "[s]ingling out a group of students [by] categorizing them as troubled students is prejudice[d] and discriminatory." Respondent further violated *N.J.S.A. 18A:12-24.1(b)* because all students are afforded free education rights, and this right does not distinguish or discriminate between individual or a group of students' physical, emotional, and behavioral needs. Complainant maintains that Respondent additionally violated *N.J.S.A. 18A:12-24.1(e)* because he made "disparaging and discriminatory statements against the Lake Drive ... students on a personal level based on their disabilities and false[ly] assert[ed] that this group of students ha[s] extraordinary behavior problems."

Regarding the alleged violation of *N.J.S.A. 18A:12-24.1(b)*, Respondent counters that the "Complaint does not specifically identify any decision that [Respondent] made contrary to the educational welfare of children," and "does not present any evidence that [Respondent] took a specific action to obstruct any program or policy designed to meet the needs of all children." In addition, and as for the alleged violation of *N.J.S.A. 18A:12-24.1(e)*, Respondent argues that Complainant did not provide any evidence or facts that Respondent made "a personal promise" or took "action beyond the scope of his duties that could have compromised the Board." Instead, Respondent submits he "was simply clarifying his understanding of an issue that was being discussed by the Board."

As set forth in *N.J.A.C. 6A:28-6.4(a)(2)*, factual evidence of a violation of *N.J.S.A. 18A:12-24.1(b)* shall include evidence that Respondent willfully made a decision contrary to the

educational welfare of children, or evidence that Respondent 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.

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:12-24.1(b)*. The Commission agrees with Respondent that the crux of the alleged violation of *N.J.S.A. 18A:12-24.1(b)* is the statements made by Respondent during the Board meeting, and not any particular decision he made or action he took in his capacity as a Board member. Even if callous and unkind, Respondent's statements, in and of themselves, are not a sufficient basis upon which to find a violation. Therefore, the Commission finds that the alleged violation of *N.J.S.A. 18A:12-24.1(b)* in Count 1 should be dismissed.

Pursuant to *N.J.A.C. 6A:28-6.4(a)(5)*, factual evidence of a violation of *N.J.S.A. 18A:12-24.1(e)* shall include evidence that Respondent made personal promises or took action beyond the scope of his duties such that, by its nature, had the potential to compromise the board.

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:12-24.1(e)*. Again, the central tenet of Complainant's factual allegations concern the "disparaging" and "discriminatory" statements that Respondent made about the Lake Drive students, and the attribution of inaccurate information about those students (according to Complainant) to the general public and to the other members of the Board. However, Respondent's statements do not constitute "personal promises" and statements/discussion by and between members of the Board about matters on the Agenda, including the budget, clearly fall within the scope of their duties as Board members *even if* those statements are not well-received by the public. As a result, the Commission finds that the alleged violation of *N.J.S.A. 18A:12-24.1(e)* in Count 1 should be dismissed.

Count 2

In Count 2, Complainant claims that Respondent violated *N.J.S.A. 18A:12-24.1(g)* because the statements he made at the Board meeting regarding the Lake Drive students lacked a sufficient factual basis because he (Respondent) "did not conduct the [HIB] investigation[s] or the administration of the HIB cases." As a result, Respondent "took private action in making discriminatory statements that could compromise the ... District and the ... Board ... and its members from potential lawsuits and any violation of Federal and State law."

Respondent counters that Complainant did not provide evidence to establish that Respondent "took action to publicize information that was not public, or confidential in nature." According to Respondent, his statements "clearly" did not "injure any individuals or the schools, as no specific individuals or HIB incidents were named or confidential information revealed." Furthermore, Complainant did not provide any evidence that Respondent's statements "were inaccurate" and if they were inaccurate, Complainant did not provide any evidence that "such a mistake was 'unreasonable.'"

As set forth in *N.J.A.C. 6A:28-6.4(a)(7)*, factual evidence of a violation of the confidentiality provision of *N.J.S.A. 18A:12-24.1(g)* shall include evidence that Respondent took action to make public, reveal or disclose information that was not public under any laws, regulations or court orders of this State, or information that was otherwise confidential in accordance with board policies, procedures or practices. Factual evidence that Respondent violated the inaccurate information provision of *N.J.S.A. 18A:12-24.1(g)* shall include evidence that substantiates the inaccuracy of the information provided by Respondent and evidence that establishes that the inaccuracy was other than reasonable mistake or personal opinion or was not attributable to developing circumstances.

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:12-24.1(g)*. Although Complainant argues that the statements made by Respondent about the Lake Drive students were inaccurate, and the Commission agrees that inaccurate statements made by a Board member may be actionable and could violate this provision of the Code, Complainant did not include the necessary predicate facts to establish a violation. In other words, Complainant needed to provide “evidence that substantiates the inaccuracy” of Respondent’s statements, and evidence that Respondent’s inaccurate statements were “other than reasonable mistake or personal opinion or [were] not attributable to developing circumstances.” Without these factual assertions and evidentiary support, the Commission finds that the alleged violation of *N.J.S.A. 18A:12-24.1(g)* in Count 2 should be dismissed.

Accordingly, and granting all inferences in favor of the non-moving party (Complainant), the Commission has determined to **grant** the Motion to Dismiss in its entirety because Complainant failed to plead sufficient, credible facts to support a finding that Respondent violated *N.J.S.A. 18A:12-24.1(b)* and *N.J.S.A. 18A:12-24.1(e)* as alleged in Count 1, and/or violated *N.J.S.A. 18A:12-24.1(g)* as argued in Count 2.

Notwithstanding the Commission’s determination as set forth herein, the Commission acknowledges that Complainant was clearly offended by the statements made by Respondent at the Board meeting on April 27, 2020, and that he found the statements to be objectionable and offensive. Although Respondent has apologized for his statements, the Commission wishes to remind all school officials that they should *always* be mindful of how their statements may be perceived, and received, by members of the public, and they should always strive to ensure that their actions, and statements, are undertaken for the best interests of **all** students.

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 Respondent violated *N.J.S.A. 18A:12-24.1(b)* and *N.J.S.A. 18A:12-24.1(e)* as contended in Count 1, and/or violated *N.J.S.A. 18A:12-24.1(g)* as asserted in Count 2.

Pursuant to *N.J.S.A. 18A:12-29(b)*, the Commission hereby notifies Complainant 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: October 27, 2020

***Resolution Adopting Decision
in Connection with C23-20***

Whereas, at its meeting on September 29, 2020, 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 September 29, 2020, 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:12-24.1(b)* and *N.J.S.A. 18A:12-24.1(e)* as alleged in Count 1, and/or violated *N.J.S.A. 18A:12-24.1(g)* as argued in Count 2; and

Whereas, at its meeting on October 27, 2020, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on September 29, 2020; 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 October 27, 2020.

Kathryn A. Whalen, Director
School Ethics Commission