

**SCHOOL ETHICS COMMISSION MEETING  
PUBLIC SESSION MINUTES**

**FEBRUARY 24, 2015**

Robert Bender called the meeting to order at 9:46 a.m.

Notice of the meeting was provided to the State House Press Corps and the Secretary of State and filed as required by the Open Public Meetings Act. In attendance were Commission members Frank Digesere, Mark Finkelstein, Dan Kaplan, Louis Modugno, Ellen Polaner, Dennis Roberts and Chairperson Robert Bender.

Acting Executive Director Joanne Restivo, Legal Specialist Jesse Landon, Administrative Assistant Karin Molnar and Deputy Attorney General Chris Huber were also in attendance.

**9:49 a.m.** Motion was made by Ellen Polaner and seconded by Dennis Roberts to adjourn to Executive Session to discuss confidential matters and to obtain legal advice regarding the following complaints, advisory requests, and matters involving possible litigation: C08-14, C16-14, C20-14, C08-14, C44-14, C46-14, C47-14, C48-14, C42-09, A42-14, A47-14, A51-14, A52-14, A53-14, A54-14, A01-15, A02-15, A03-15, A05-14, C53-14, C54-14, C33-13, C46-12, C46-13, C28-14, A07-13, A45-14 the Revised 2015 SEC Meeting Calendar, Bill #S387, C35-14, c49-12, C33-10, Perth Amboy matters, Financial Disclosure Filings for 2014 and Doctrines of Necessity filed by the Vineland, Woodbridge and Kearny Boards of Education. Vote: 7 – Yes 0 - No

**2:00 p.m.** Mark Finkelstein departed.

**3:35 p.m.** Return to Public Session.

**Minutes** Motion was made by Frank Digesere and seconded by Ellen Polaner to approve the Minutes of the December 16, 2014 Commission meeting. Vote: 6 – Yes 0 – No

**Complaints**

**C16-14** Motion was made by Ellen Polaner and seconded by Frank Digesere to deny the request of Respondents for reconsideration. Vote: 6 – Yes 0 – No

A second motion was made by Dennis Roberts and seconded by Ellen Polaner to deny the motions to dismiss, find violations of N.J.S.A. 18A:12-24.1(c) and (e) as to Respondents Smallwood and Simmons and find not frivolous. Vote: 5 – Yes 0 – No 1 – Abstention (Dan Kaplan abstained.)

A third motion was made by Dennis Roberts and seconded by Ellen Polaner to recommend a penalty of censure. Vote: 5 – Yes 1 – No (Louis Modugno voted in the negative.)

**C20-14** Motion was made by Dennis Roberts and seconded by Ellen Polaner to find no violation and dismiss the matter. Vote: 6 – Yes 0 - No

**C08-14** Motion was made by Frank Digesere and seconded by Louis Modugno to find probable cause as to Allegations 3, 4 and 5 entirely and transmit to the Office of Administrative Law (OAL) for a hearing to be held at a later date. Vote: 6 – Yes 0 - No.

**C44-14** Motion was made by Dennis Roberts and seconded by Frank Digesere to find no probable cause and not frivolous. Vote: 6 – Yes 0 - No

**C46-14** Motion was made by Dennis Roberts and seconded by Dan Kaplan to deny the motion to dismiss and find not frivolous. Vote: 6 – Yes 0 - No

**C47-14** Motion was made by Dennis Roberts and seconded by Dan Kaplan to deny the motion to dismiss, find not frivolous and transmit to the OAL for a hearing to be held at a later date. Vote: 6 – Yes 0 - No

**C48-14** Motion was made by Louis Modugno and seconded by Frank Digesere to grant the motion to dismiss the complaint as to Respondent Smallwood and find not frivolous. Vote: 6 – Yes 0 – No

A second motion was made by Louis Modugno to dismiss the complaint as to all other respondents *sua sponte* and find not frivolous. Vote: 6 – Yes 0 - No

**C42-09** Motion was made by Dennis Roberts and seconded by Louis Modugno to accept the initial settlement decision. Vote: 6 – Yes 0 - No

### **Advisory Opinions**

**A42-14** Motion was made by Dennis Roberts and seconded by Ellen Polaner to advise as discussed. Vote: 6 – Yes 0 – No

**A47-14** A second motion was made by Ellen Polaner and seconded by Frank Digesere to advise as discussed. Vote: 6 – Yes 0 – No

**A51-14** Motion was made by Dennis Roberts and seconded by Dan Kaplan to advise as discussed. Vote: 6 – Yes 0 – No

**A52-14** Motion was made by Frank Digesere and seconded by Dennis Roberts to advise as discussed. Vote: 6 – Yes 0 – No

**A53-14** Motion was made by Dennis Roberts and seconded by Dan Kaplan to advise as discussed. Vote: 6 – Yes 0 – No

**A54-14** Motion was made by Dennis Roberts and seconded by Dan Kaplan to advise as discussed. Vote: 6 – Yes 0 – No

**A01-15** Motion was made by Dennis Roberts and seconded by Dan Kaplan to advise as discussed. Vote: 6 – Yes 0 – No

**A02-15** Motion was made by Frank Digesere and seconded by Dan Kaplan to advise as discussed. Vote: 6 – Yes 0 – No

**A03-15** Motion was made by Dennis Roberts and seconded by Ellen Polaner to advise as discussed. Vote: 6 – Yes 0 – No

**A05-14** This matter was tabled.

### **Administrative Dismissals**

**C53-14** This matter was on for informational purposes only.

**C54-14** This matter was on for informational purposes only.

**C33-13** This matter was on for informational purposes only.

### **Other Business**

**C46-12** Motion was made by Dennis Roberts and seconded by Dan Kaplan to adopt the Consent Order. Vote: 6 – Yes 0 – No

**C46-13** Motion was made by Dennis Roberts and seconded by Dan Kaplan to adopt the Consent Order. Vote: 6 – Yes 0 – No

**C28-14** Motion was made by Dennis Roberts and seconded by Dan Kaplan to accept the withdrawal of this matter. Vote: 6 – Yes 0 – No

**Revised SEC Meeting Dates Calendar** Motion was made by Ellen Polaner and seconded by Dennis Roberts to adopt the revised calendar. Vote: 6 – Yes 0 – No

**C35-14** This matter was on for informational purposes only.

**C49-12** Motion was made by Ellen Polaner and seconded by Frank Digesere to adopt the Resolution of Censure. Vote: 6 – Yes 0 – No

**C33-10** Motion was made by Dennis Roberts and seconded by Frank Digesere to adopt the Resolution of Censure. Vote: 6 – Yes 0 – No

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**Perth Amboy Matters** Motion was made by Ellen Polaner and seconded by Dan Kaplan to issue an Order to Show Cause in this matter. Vote: 5 – Yes 1 – No (Louis Modugno voted no.)

**Financial Disclosure Filings for 2014** This matter was tabled.

**3:43 p.m.** Motion was made by Dan Kaplan and seconded by Dennis Roberts to adjourn. Vote: 6 – Yes 0 - No

Submitted by:

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Karin L. Molnar

Approved by:

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Joanne M. Restivo, Acting Executive Director

Minutes 2-24-15 Public