

# SCHOOL ETHICS COMMISSION MEETING PUBLIC SESSION MINUTES

**JULY 28, 2015**

Robert Bender called the meeting to order at 9:33 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 (arrived at 9:36), and Chairperson Robert Bender.

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

Joanne Restivo informed the Commission of the departure of Jill Kail from the School Ethics Office due to the expiration of her contract. The Commission praised the work of Ms. Kail and expressed regret over her departure.

**9:36 a.m.** Motion was made by Ellen Polaner and seconded by Frank Digesere 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: C58-14, C12-15, C11-15, C14-15, C05-14, C30-15, C31-15, C32-15, C01-15, C02-15, C03-15, C04-15, C08-15, C10-15, C59-14, C11-14, A01-15, A11-15, A12-15, A13-15, A14-15, A15-15, A09-15, A10-15, Doctrines of Necessity filed by the Brick Township, Woodbridge, Elizabeth, Fair Lawn, Carteret, Cedar Grove, Lodi, and Plumstead Boards of Education, proposed regulations for the School Ethics Commission, and Bill S729. Vote: 7 – Yes 0 - No

**1:57 p.m.** Return to Public Session.

**Minutes** Motion was made by Ellen Polaner and seconded by Dennis Roberts to approve the Minutes of the June 30, 2015 Commission meeting. Vote: 7 – Yes 0 – No

## **Complaints**

**C58-14** Motion was made by Ellen Polaner and seconded by Dan Kaplan to table this matter and direct the parties to submit legal arguments on the authority of Board of Education Presidents to issue Rice notices. Vote: 7 – Yes 0 – No

**C12-15** Motion was made by Frank Digesere and seconded by Louis Modugno to find probable cause, deem the matter not frivolous and to transmit to the Office of Administrative Law for a hearing to be held as a later date. Vote: 7 - Yes 0 – No

**C11-15** Motion was made by Dennis Roberts and seconded by Dan Kaplan to grant the motion to dismiss this matter. Vote: 7 – Yes 0 – No

**C14-15** Motion was made by Ellen Polaner and seconded by Dennis Roberts to grant the Motion to Dismiss alleged violations of N.J.S.A. 18A:12-24.1(a), (b) and (j) in Count 1 as well as N.J.S.A. 18A:12-24.1(a) in Count 2; to deny the Motion to Dismiss all other allegations, and find not frivolous. Vote: 7 – Yes 0 – No

**C05-14** Motion was made by Dennis Roberts and seconded by Louis Modugno to accept the initial decision in this matter. Vote: 7 – Yes 0 – No

**C30-14** Motion was made by Dan Kaplan and seconded by Mark Finkelstein to adopt the decision as written in this matter. Vote: 7 – Yes 0 – No

**C31-14** Motion was made by Dan Kaplan and seconded by Mark Finkelstein to adopt the decision as written in this matter. Vote: 7 – Yes 0 – No

**C32-14** Motion was made by Dan Kaplan and seconded by Mark Finkelstein to adopt the decision as written in this matter. Vote: 7 – Yes 0 – No

**C01-15** Motion was made by Dennis Roberts and seconded by Louis Modugno to adopt the Order to Show Cause as written. Vote: 6 – Yes 0 – No 1 – Abstention (Mark Finkelstein abstained.)

**C02-15** Motion was made by Dennis Roberts and seconded by Louis Modugno to adopt the Order to Show Cause as written. Vote: 6 – Yes 0 – No 1 – Abstention (Mark Finkelstein abstained.)

**C03-15** Motion was made by Dennis Roberts and seconded by Louis Modugno to adopt the Order to Show Cause as written. Vote: 6 – Yes 0 – No 1 – Abstention (Mark Finkelstein abstained.)

**C04-15** Motion was made by Dennis Roberts and seconded by Louis Modugno to adopt the Order to Show Cause as written. Vote: 6 – Yes 0 – No 1 – Abstention (Mark Finkelstein abstained.)

**C08-15** Motion was made by Frank Digesere and seconded by Ellen Polaner to rescind the June 30, 2015 vote to deny the Motion to Dismiss. Vote: 6 – Yes 0 – No 1 – Abstention (Mark Finkelstein abstained.)

A second motion was made by Frank Digesere and seconded by Ellen Polaner to grant the Motion to Dismiss the alleged violations of N.J.S.A. 18A:12-22(a) as well as N.J.S.A. 18A:12-24(a), to deny as to all other allegations and adopt the decision as written. Vote: 6 – Yes 0 – No 1 – Abstention (Mark Finkelstein abstained.)

**C10-15** Motion was made by Mark Finkelstein and seconded by Dennis Roberts to adopt the decision as written. Vote: 7 – Yes 0 – No

**C59-14** Motion was made by Dennis Roberts and seconded by Louis Modugno to adopt the decision as written. Vote: 7 – Yes 0 – No

**C11-14** Motion was made by Dennis Roberts and seconded by Louis Modugno to adopt the decision as written. Vote: 7 – Yes 0 - No

**Advisory Opinions**

**A01-15** Motion was made by Mark Finkelstein and seconded by Dennis Roberts to advise as discussed. Vote: 7 – Yes 0 – No

**A11-15** Motion was made by Ellen Polaner and seconded by Frank Digesere to table this matter. Vote: 7 – Yes 0 – No

A second motion was made by Ellen Polaner and seconded by Frank Digesere to remove Advisory Opinion A03-15 from the public domain temporarily. Vote: 7 – Yes 0 - No

**A12-15** Motion was made by Dennis Roberts and seconded by Mark Finkelstein to advise as discussed. Vote: 7 – Yes 0 – No

**A13-15** Motion was made by Dennis Roberts and seconded by Mark Finkelstein to table this matter. Vote: 7 – Yes 0 – No

**A14-15** Motion was made by Frank Digesere and seconded by Ellen Polaner to advise as discussed. Vote: 7 – Yes 0 – No

**A15-15** Motion was made by Dennis Roberts and seconded by Mark Finkelstein to table this matter. Vote: 7 – Yes 0 – No

**A09-15** Motion was made by Dan Kaplan and seconded by Louis Modugno to adopt this opinion as written and make public. Vote: 7 – Yes 0 – No

**A10-15** Motion was made by Mark Finkelstein and seconded by Dennis Roberts to adopt this opinion as written and make public. Vote: 7 – Yes 0 – No

**2:07 p.m.** Motion was made by Dan Kaplan and seconded by Dennis Roberts to adjourn. Vote: 7 – Yes 0 – No

Submitted by:

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Karin L. Molnar

Approved by:

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Joanne M. Restivo, Acting Executive Director