

# SCHOOL ETHICS COMMISSION MEETING PUBLIC SESSION MINUTES

**AUGUST 26, 2014**

Robert Bender called the meeting to order at 9:30 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.

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

**9:39 a.m.** Motion was made by Dennis Roberts and seconded by Dan Kaplan 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: C23-14, C24-14, C09-14, C19-14, C16-14, C20-14, C22-14, C37-14, C08-14, C19-14, C15-14, C28-13, C43-14, C05-13, C30-13, C24-13, C30-12, C02-13, C35-13, A24-14, A31-14, A28-14, A29-14, A30-14, A32-14, A33-14, A34-14, A35-14, C46-13, C33-10, C52-13, C08-14, C53-13 and Doctrines of Necessity filed by the Carteret, Hammonton and Kearny Boards of Education. Vote: 7 – Yes 0 – No

**1:45 p.m.** Return to Public Session.

**Minutes** Motion was made by Dennis Roberts and seconded by Frank Digesere to approve the Minutes of the July 22, 2014 Commission meeting as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

## **Complaints**

**C23-14** Motion was made by Dennis Roberts and seconded by Dan Kaplan to dismiss this matter as untimely. Vote: 7– Yes 0 - No

**C24-14** Motion was made by Ellen Polaner and seconded by Dennis Roberts to accept complainant's withdrawal request. Vote: 7 – Yes 0 - No

**C09-14** Motion was made by Louis Modugno and seconded by Ellen Polaner to dismiss this matter without prejudice and to grant the complainant an opportunity to file an amended complaint within 20 days of the Decision during which the time will toll. The Commission also voted to direct the respondents to file an Answer to Count 3 only within 20 days of this period if the complainant does not so amend. Finally, the Commission directed the respondent to file an Answer to Counts 1, 2, and 3 within 20 days after the School Ethics Commission acknowledges receipt should the complainant amend his complaint as directed. Vote: 7 – Yes 0 - No

**C19-14** Motion was made by Dennis Roberts and seconded by Mark Finkelstein to rescind the portion of the July 22, 2014 vote granting the motion to dismiss Count 1 as untimely. Vote: 7 – Yes 0 – No

**C19-14** A second motion was made by Dennis Roberts and seconded by Mark Finkelstein to deny respondent's motion to dismiss Count 1 and direct the respondent to file an answer on Count 1 of this complaint that responds to this Commission's request for additional information. Vote: 7 – Yes 0 – No

**C16-14** Motion was made by Dennis Roberts and seconded by Ellen Polaner to find not frivolous to hold for a hearing to be held at a later date. Vote: 7 – Yes 0 – No

**C20-14** Motion was made by Frank Digesere and seconded by Dennis Roberts to find not frivolous and hold for summary review and decision pursuant to [N.J.A.C. 6A:28-10.7\(c\)\(1\)](#). Vote: 7 – Yes 0 – No

**C22-14** Motion was made by Ellen Polaner and seconded by Mark Finkelstein to accept the withdrawal of this matter by the respondent. Vote: 7 – Yes 0 – No

**C37-13** Motion was made by Ellen Polaner and seconded by Dennis Roberts to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**C08-14** Motion was made by Dennis Roberts and seconded by Dan Kaplan to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**C15-14** Motion was made by Dennis Roberts and seconded by Ellen Polaner to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**C28-13** Motion was made by Ellen Polaner and seconded by Frank Digesere to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**C43-13** Motion was made by Ellen Polaner and seconded by Frank Digesere to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**C05-13** Motion was made by Dennis Roberts and seconded by Dan Kaplan to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**C30-13** Motion was made by Dan Kaplan and seconded by Dennis Roberts to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**C24-13** Motion was made by Frank Digesere and seconded by Ellen Polaner to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**C3012/C02-13/C35-13** Motion was made by Dennis Roberts and seconded by Ellen Polaner to remand this matter to the Office of Administrative Law Judge for an initial decision on the settlement. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

### **Advisory Opinions**

**A24-14** Motion was made by Louis Modugno and seconded by Dan Kaplan to adopt with edits. Vote: 7 – Yes 0 – No

**A31-14** Motion was made by Mark Finkelstein and seconded by Dennis Roberts to table this matter. Vote: 7 – Yes 0 – No

**A28-14** Motion was made by Dennis Roberts and seconded by Ellen Polaner to adopt as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**A29-14** Motion was made by Frank Digesere and seconded by Ellen Polaner to adopt as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**A30-14** Motion was made by Dennis Roberts and seconded by Frank Digesere to adopt with edits. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**A32-14** Motion was made by Dennis Roberts and seconded by Ellen Polaner to adopt as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**A33-14** Motion was made by Ellen Polaner and seconded by Dennis Roberts to adopt as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**A34-14** Motion was made by Frank Digesere and seconded by Dennis Roberts to adopt as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**A35-14** Motion was made by Dennis Roberts and seconded by Dan Kaplan to adopt as written. Vote: 5 – Yes 0 – No 2 – Abstentions (Mark Finkelstein and Louis Modugno abstained.)

**Other Business**

**C33-10** This matter was on the agenda for informational purposes only.

**C52-13** Motion was made by Ellen Polaner and seconded by Mark Finkelstein to accept the Initial Settlement Decision of the Administrative Law Judge. Vote: 7 – Yes 0 – No

**C08-14** This matter was on the agenda for informational purposes only.

**C53-13** Motion was made by Mark Finkelstein and seconded by Dennis Roberts to accept the Consent Order. Vote: 7 – Yes 0 – No

**C25-13** Motion was made by Dan Kaplan and seconded by Ellen Polaner to accept the settlement in this matter. Vote: 7 – Yes 0 – No

**C26-13** This matter was on the agenda for informational purposes only.

**Training Enforcement** Motion was made by Louis Modugno and seconded by Mark Finkelstein to issue a Resolution granting extraordinary relief for Nancy Santora, Tynea Berger and David Asige-Sereda and to issue Orders To Show Cause (OTSC's) should any of these three individuals fail to complete their required training. Vote: 7 – Yes 0 – No

**2:00 p.m.** Dan Kaplan departed.

**S1931, S1410 and S387** Joanne Restivo informed the Commission of two new pieces of legislation that have been introduced, both of which propose changes to the School Ethics Act. In addition, S387, which would have permitted school board candidates to bracket themselves together of the ballot, was conditionally vetoed by Governor Christie, The Commission determined that S387 should be watched and a response drafted, should it become necessary.

**2:06 p.m.** Motion was made by Dennis Roberts and seconded by Ellen Polaner 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, Interim Executive Director

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