

School Ethics Commission Meeting Public Session Minutes

November 27, 2018

Chairperson Robert Bender called the meeting to order at 9:45 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 School Ethics Commission (Commission) members Michael Carucci, Mark Finkelstein, Dan Kaplan, Dennis Roberts (departed at 2:01 p.m.), Jude Tanella, Richard Tomko, and Chairperson Bender. Commission member Michael Collins was absent.

Also in attendance were Kathryn Whalen, Director, Offices of School Ethics and Compliance, staff member Jeannine Pizzigoni, along with Deputy Attorneys General (DAsG) Donna Arons and Lauren Jensen (arrived at 1:30 p.m. and departed at 1:35 p.m.).

9:46 a.m. Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adjourn to Executive Session to discuss confidential matters and to obtain legal advice regarding C34-18. Vote: 7 – Yes 0 – No

10:01 a.m. Motion was made by Dennis Roberts, and seconded by Richard Tomko, to return to public session, and to begin the Code hearing in connection with C34-18.

After Chairperson Bender explained how the Code hearing would proceed, the parties were invited to present their opening statements/remarks. At the conclusion of Complainant's opening statement/remarks, Respondent reserved her right to present an opening statement/remarks until after the conclusion of Complainant's case. Complainant proceeded to present his case to the Commission, which included the introduction of video evidence (C-1). Counsel for Respondent objected to the admission of the video evidence based on, among other things, hearsay and authenticity. Despite Respondent's objections, the video was viewed. Complainant also introduced as evidence his Complaint (C-2) (to which Respondent objected to the admissibility of the attachments only), Respondent's Answer to Complaint with allegation of frivolous filing (C-3) (to which Respondent had no objections, and it was admitted), as well as Complainant's response to the allegation of frivolous filing (C-4) (to which Respondent had no objections, and it was admitted). Complainant was then subject to cross-examination from Respondent, and members of the Commission also asked questions of Complainant. After Complainant completed the presentation of his evidence, Respondent, through her counsel, made an oral Motion to Dismiss.

10:59 a.m. Motion was made by Dennis Roberts, and seconded by Jude Tanella, to adjourn to Executive Session to discuss Respondent's oral Motion to Dismiss. Vote: 7 – Yes 0 – No

C34-18 During Executive Session, the Commission discussed the request, and to advise as discussed.

11:10 a.m. Motion was made by Dennis Roberts, and seconded by Mark Finkelstein, to deny the oral Motion to Dismiss, and to continue with the hearing. Vote: 7 – Yes 0 – No

After her oral Motion to Dismiss was denied, Respondent (through counsel) presented her opening statement/remarks. Counsel then called Respondent as his first witness. During the course of her testimony, Respondent introduced as evidence: May 17, 2018, statement from Respondent (R-1) (to which Complainant had no objection, and it was admitted); May 21, 2018, statement from Respondent (R-2) (to which Complainant had no objection, and it was admitted); May 29, 2018, letter from "Black parents of Maplewood and South Orange" to the members of the South Orange-Maplewood Board of Education (R-3) (to which Complainant had no objection, and it was admitted); Petition from SOMA Justice (R-4) (to which Complainant had no objection, and it was admitted); E-mail from Melissa Rany dated May 30, 2018, from SOMA Justice to the members of the South Orange-Maplewood Board of Education (R-5) (to which Complainant had no objection, and it was admitted); May 17, 2018, "Letter: Founding Members of PARES Issue Respondent to 'Attacks' on Lawson-Muhammad" (R-6) (to which Complainant had no objection, and it was admitted); and May 18, 2018, "LETTER: SOMA Justice Demands Investigation & Rejects Call for Lawson-Muhammad Resignation" (R-7) (to which Complainant had no objection, and it was admitted). Respondent was then subject to cross-examination from Complainant, and members of the Commission also asked questions of Respondent.

12:31 p.m. Before presenting her next witness, Respondent (through counsel) requested a brief recess. Chairperson Bender adjourned the meeting until 12:40 p.m.

12:41 p.m. All parties return, and the Code hearing resumes with Respondent calling her next witness, Anne Marie Maini.

After offering testimony about the character of, and her relationship with, Respondent, Ms. Maini was subject to cross-examination from Complainant. Members of the Commission also asked questions of Ms. Maini.

At the conclusion of Ms. Maini's testimony, Respondent indicated that she did not have any additional witnesses to present. Chairperson Bender then advised the parties that, in light of the objections from Respondent regarding the admissibility of the video evidence, Respondent could

submit her written objections to the admissibility of the video evidence by December 7, 2018, and that Complainant could file his reply by December 17, 2018. Thereafter, both parties would be afforded the opportunity to submit post-hearing submissions/closing arguments to the Commission by January 11, 2019. Chairperson Bender then advised that the Commission would consider the evidence presented at the hearing, the Exhibits, as well as the post-hearing submissions at its meeting on January 22, 2019, and would endeavor to adopt a decision at its meeting on February 26, 2019.

12:56 p.m. Code hearing in connection with C34-18 concluded.

12:57 p.m. Motion was made by Michael Carucci, and seconded by Dennis Roberts to adjourn to Executive Session to discuss confidential matters and to obtain legal advice regarding the following complaints and matters involving possible litigation: C34-18; C73-17; C45-18; C46-18; C49-18; C55-18; C59-18; C08-15; C51-17; C24-18; C38-18; C44-18; C47-18; C52-18; C53-18; T03-18; T06-18; T08-18; T10-18; T14-18; A32-18; A33-18; A34-18; A31-18; C56-18; C57-18; T01-18; T02-18; T04-18; T05-18; T07-18; T09-18; T11-18 through T13-18; a Doctrine of Necessity filed by the Bridgeton Board of Education; C01-16; D01-18 through D03-18; and discussion of proposed revisions to the Chapter 28 regulations. Vote: 7 – Yes 0 – No.

1:57 p.m. Open Session

Complaints to Review

C73-17 Motion was made by Michael Carucci, and seconded by Richard Tomko, to draft a decision as discussed. Vote: 7 – Yes 0 – No

C45-18 Motion was made by Richard Tomko, and seconded by Daniel Kaplan, to draft a decision as discussed. Vote: 7 – Yes 0 – No

C46-18 Motion was made by Daniel Kaplan, and seconded by Jude Tanella, to draft a decision as discussed. Vote: 7 – Yes 0 – No

C49-18 Motion was made by Richard Tomko, and seconded by Mark Finkelstein, to draft a decision as discussed. Vote: 7 – Yes 0 – No

C55-18 Motion was made by Michael Carucci, and seconded by Jude Tanella, to draft a decision as discussed. Vote: 7 – Yes 0 – No

C59-18 Motion was made by Jude Tanella, and seconded by Daniel Kaplan, to draft a decision as discussed. Vote: 7 – Yes 0 – No

Decisions to Adopt as Written

C08-15 Motion was made by Mark Finkelstein, and seconded by Dan Kaplan, to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstention (Michael Carucci and Dennis Roberts abstained)

C51-17 Motion was made by Richard Tomko, and seconded by Daniel Kaplan, to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstention (Michael Carucci and Dennis Roberts abstained)

C24-18 Motion was made by Richard Tomko, and seconded by Daniel Kaplan, to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstention (Michael Carucci and Dennis Roberts abstained)

C38-18 Motion was made by Daniel Kaplan, and seconded by Richard Tomko, to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstention (Michael Carucci and Dennis Roberts abstained)

C44-18 Motion was made by Jude Tanella, and seconded by Richard Tomko, to adopt the decision as written. Vote: 4 – Yes 0 – No 3 – Abstention (Michael Carucci, Mark Finkelstein and Dennis Roberts abstained)

C47-18 Motion was made by Richard Tomko, and seconded by Daniel Kaplan, to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstention (Michael Carucci and Dennis Roberts abstained)

C52-18 Motion was made by Daniel Kaplan, and seconded by Jude Tanella, to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstention (Michael Carucci and Dennis Roberts abstained)

C53-18 Motion was made by Richard Tomko, and seconded by Daniel Kaplan, to adopt the decision as written. Vote: 5 – Yes 0 – No 2 – Abstention (Michael Carucci and Dennis Roberts abstained)

Orders to Show Cause

T03-18 Motion was made by Richard Tomko, and seconded by Jude Tanella, to adopt the decision as written. Vote: 7 – Yes 0 – No

T06-18 Motion was made by Richard Tomko, and seconded by Jude Tanella, to adopt the decision as written. Vote: 7 – Yes 0 - No

T08-18 Motion was made by Richard Tomko, and seconded by Jude Tanella, to adopt the decision as written. Vote: 7 – Yes 0 - No

T10-18 Motion was made by Richard Tomko, and seconded by Jude Tanella, to adopt the decision as written. Vote: 7 – Yes 0 - No

T14-18 Motion was made by Richard Tomko, and seconded by Jude Tanella, to adopt the decision as written. Vote: 7 – Yes 0 - No

Advisory Opinions

A32-18 Motion was made by Michael Collins, and seconded by Richard Tomko, to advise as discussed. Vote: 7 – Yes 0 – No

A33-18 Motion was made by Richard Tomko, and seconded by Mark Finkelstein, to advise as discussed. Vote: 7 – Yes 0 – No

A34-18 Motion was made by Jude Tanella, and seconded by Richard Tomko, to advise as discussed. Vote: 7 – Yes 0 – No

A31-18 Motion was made by Richard Tomko, and seconded by Jude Tanella, to adopt this Advisory Opinion as written. Vote: 5 – Yes 0 – No 2 – Abstention (Michael Carucci and Dennis Roberts abstained)

Administrative Dismissals

C56-18 This matter was on the agenda for informational purposes only.

C57-18 This matter was on the agenda for informational purposes only.

T01-18 This matter was on the agenda for informational purposes only.

T02-18 This matter was on the agenda for informational purposes only.

T04-18 This matter was on the agenda for informational purposes only.

T05-18 This matter was on the agenda for informational purposes only.

T07-18 This matter was on the agenda for informational purposes only.

T09-18 This matter was on the agenda for informational purposes only.

T11-18 This matter was on the agenda for informational purposes only.

T12-18 This matter was on the agenda for informational purposes only.

T13-18 This matter was on the agenda for informational purposes only.

2:01 p.m. Commissioner Roberts departed.

Other Business

Doctrines of Necessity Chairperson Bender acknowledged receipt of a Doctrine of Necessity submitted by the Bridgeton Township Board of Education.

C01-16 The Commission was briefed on this matter by DAG Jensen, which was on the agenda for informational purposes only.

D01-18 Motion was made by Richard Tomko, and seconded by Jude Tanella to adopt the Resolution as written. Vote: 6 – Yes 0 – No

D02-18 Motion was made by Richard Tomko, and seconded by Jude Tanella to adopt the Resolution as written. Vote: 6 – Yes 0 – No

D03-18 Motion was made by Richard Tomko, and seconded by Jude Tanella to adopt the Resolution as written. Vote: 6 – Yes 0 – No

Proposed Revisions to Chapter 28 Regulations The Commission was briefed on this matter by Director Whalen and, after discussion, a recommendation was made to continue discussions at a subsequent meeting, December or January, for presentation by the Committee.

Minutes

Motion was made by Mark Finkelstein, and seconded by Richard Tomko, to adopt the minutes of the October 30, 2018, meeting as written. Vote: 5 – Yes 0 – No 1 – Abstention (Michael Carucci abstained)

2:04 p.m. Motion was made by Richard Tomko, and seconded by Jude Tanella, to adjourn.
Vote: 6 – Yes 0 - No

Submitted by:

Jeannine Pizzigoni

Approved by:

Kathryn A. Whalen, Director