

## School Ethics Commission Meeting Public Session Minutes

**October 27, 2020**

Chairperson Robert Bender called the meeting of the School Ethics Commission (Commission) to order at 9:32 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.

### ***I. Roll Call***

<b>Roll Call</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Present</b>	X	X		X	X	X	X	6
<b>Absent</b>			X					1

Also in attendance were Kathryn Whalen, Director, Offices of School Ethics and Compliance, staff member Jeannine Pizzigoni, and Deputy Attorney General (DAG) Jaclyn Frey. Everyone in attendance at the meeting participated via telephone due to the ongoing COVID-19 pandemic.

### ***II. First Public Comment***

At the start of the meeting, Director Whalen explained to the public (who also accessed the meeting by telephone due to the ongoing COVID-19 pandemic) how the meeting would be conducted. More specifically, it was explained that the public would be afforded the opportunity to provide public comment regarding his/her case; the Commission would then adjourn to executive session (on a different conference line); the Commission would return to public at approximately 12:00 p.m.; at that time, members of the public would be afforded another opportunity to provide public comment in connection with his/her case; and then the Commission would vote on matters pertinent to its business.

**9:35 a.m.** Heather Garcia, the named Respondent in the matter docketed as C16-20, noted her attendance, thanked the Commission for its time and consideration, noted that it is not easy to do the work that the Commission does, and indicated she is available to answer any questions that the Commission may have regarding the matter.

**9:36 a.m.** Raina Pitts, counsel representing the named Respondents in the matters docketed C39-20 and C40-20, noted her attendance, but did not offer any other public comments.

**9:37 a.m.** Claire Odierna, the named Complainant in the matters docketed C24-20, C27-20, C31-20, C32-20 and C46-20, thanked the Commission for its time and consideration, noted that she realizes her Complaints were lengthy, and expressed appreciation for the Commission's review of each matter, and then read the following statement:

Good morning Director Whalen, Commissioner, members of the School Ethics Commission and members of the public. First, I wanted to say thank you for your time in these matters concerning ethics violations against various members of the Norwood Public School Board of Education. I understand that my complaints were quite lengthy, and I am grateful to you for your time in reviewing each and every complaint.

I didn't realize until last month's meeting that I could say a few words prior to your meeting, so I wanted to take the opportunity to do so now. I promise that I will not be as lengthy as my complaints. There are just a few quick things I think are important to bear in mind as the Commission continues its process of review and determination.

The Norwood Public School District is no stranger to discriminating against special needs children and families. I am one of many.

Although it leaves me both humble and vulnerable to disclose such personal family details and events throughout my complaints, it was also necessary to do in order to convey to the Commission the gravity of the Norwood BOE's actions against families like mine with special needs children. I hope that you will consider in your review how difficult that has been for my family. Their actions reek of discrimination and you as the Commission are the only ones who have the authority to hold the Norwood BOE to the standard by which they swore their oaths to the public.

Secondly, I am not sure if you had the opportunity this past week to stay abreast of recent media coverage on the issues of discrimination as specifically related to the Norwood Public School District. There has been significant media coverage of the Norwood Public School District discriminating against special needs children. Other families have spoken out to the media and filed lawsuits. I have spoken out now to you as the Commission. I want to be sure to bring this to your attention because I am not alone in this. The Norwood Public School district has been covered in the news this past week both locally by NBC news outlet and inquiries made nationally by CNN for issues of discrimination against special needs children and their families. I want to bring this to your attention before your come to a final decision, so you know the severity of the situation, especially as other families come forward publicly.

Thirdly, and lastly, I want you to know that throughout this time I've been battling cancer. And I say that so that you know that I have taken the time out to write these complaints despite it all because I have a strong sense of justice, and I believe in what I'm saying. I believe wholeheartedly that what the Norwood BOE has done to my family and my children is discriminatory and unequivocally wrong. The Norwood BOE needs to be held accountable. I want you to know how important this is to me. I want you to know that I have dedicated my time and energy despite my personal circumstances to put my story on paper to you because I believe in what I'm saying and I know that what they did was unethical.

**9:38 a.m.** Thomas Glavin, the named Complainant in the matter docketed as C23-20, noted his presence, asked about the procedures regarding his Complaint, asked whether his public statement (made at the September 29, 2020, meeting) would be considered as part of his Complaint and if they would also be memorialized in the September meeting minutes.

### ***III. Executive Session***

At **9:42 a.m.**, the following **Resolution** was read:

**Whereas**, the Open Public Meetings Act (*N.J.S.A. 10:4-6 et seq.*) authorizes the Commission, a public body, to meet in Executive Session under certain circumstances; and

**Whereas**, the Open Public Meetings Act requires that the Commission adopt a Resolution at a public meeting to go into Executive Session; and

**Now therefore be it resolved** that, consistent with the provisions of *N.J.A.C. 10:4-12(b)*, the Commission will adjourn to executive session to discuss matters which, by statute, are regarded as confidential and also to discuss matters possibly involving litigation, specifically: C59-18; C09-20; C35-20; C36-20; C39-20; C40-20; C42-20; C43-20; C49-20; D02-20; D03-20; C16-20; C23-20; C24-20; C27-20; C30-20; C31-20; C32-20; C46-20; D01-20; A13-20; A19-20; A20-20; and Adoption of Resolution of Suspension in connection with C48-18; and

**Now therefore be it further resolved** that the Commission will return to open session to conduct business at the conclusion of Executive Session.

Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to adjourn to Executive Session to discuss the matters set forth in the foregoing Resolution.

#### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

### ***IV. Return to Public/Second Public Comment***

At **12:19 p.m.**, a motion was made by Dennis Roberts, and seconded by Jude A Tanella, to return to public session for the purpose of receiving public comment/testimony.

#### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

**12:20 p.m.** Lisa Yourman, a friend of the named Respondent in the matter docketed C30-20, noted her attendance and asked a question regarding the meaning of the initials “PC/CE.” Director Whalen explained the meaning, and Ms. Yourman did not offer any other public comments.

**12:21 p.m.** Heather Garcia, the named Respondent in the matter docketed as C16-20, again noted her attendance, but did not offer any other public comments.

**12:22 p.m.** Raina Pitts, counsel representing the named Respondents in the matters docketed C39-20 and C40-20, again noted her attendance, but did not offer any other public comments.

**12:23 p.m.** Claire Odierna, the named Complainant in the matters docketed as C24-20, C27-20, C31-20, C32-20 and C46-20, again noted her attendance, thanked the Commission for its time, and again noted her willingness to answer any questions, but did not offer any other public comments.

**12:24 p.m.** Peter Went, a friend of the named Complainant in the matter docketed C49-20, noted his attendance and requested, on behalf of Complainant, that the Commission consider the Complaint and “uphold the same.”

**12:25 p.m.** Sonya Still, the named Complainant in the matter docketed C49-20, noted her attendance, thanked the Commission for its time, and shared her concerns as the former Chairperson of The Ethical Community Charter School Board of Trustees (Board). More specifically, Ms. Still stated that the issues in this case go to the “being of the Board.” According to Ms. Still, the Board needs to be able to act without being concerned over the First Amendment rights of individual members. A Board needs to make decisions on its own, and the decisions of the body cannot be counter mandated by individual members. If this happens, it has a chilling effect on the body itself, and ultimately affects the health and well-being of the students and staff. Ms. Still continued that the sanctity of the Board needs to be preserved and, if it cannot be, it will have a “chilling” and “frightening” effect on how the Board operates. Ms. Still further noted that her Complaint is not frivolous, and she filed her complaint as a last resort when matters went too far. Ms. Still thanked the Commission for its time, and indicated her willingness to answer any questions.

***V. Complaints to Review***

**C59-18** Motion was made by Dennis Roberts, and seconded by Mark Finkelstein, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

**C09-20** Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

**C35-20** Motion was made by Michael Carucci, and seconded by Jude A. Tanella, to table the matter, and to draft correspondence as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

**C36-20** Motion was made by Dennis Roberts, and seconded by Mark Finkelstein, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

**C39-20** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

**C40-20** Motion was made by Richard Tomko, and seconded by Mark Finkelstein, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

**C42-20** Motion was made by Michael Carucci, and seconded by Richard Tomko, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X	X	X	5
<b>No</b>								0
<b>Abstention</b>				X				1

**C43-20** Motion was made by Michael Carucci, and seconded by Richard Tomko, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X	X	X	5
<b>No</b>								0
<b>Abstention</b>				X				1

**C49-20** Motion was made by Mark Finkelstein, and seconded by Michael Carucci, to table the matter and to draft correspondence as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

## ***VI. Orders to Show Cause***

**D02-20** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the order to show cause as written and to mail it.

### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

**D03-20** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the order to show cause as written and to mail it.

### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

## ***VII. Decisions to Adopt as Written***

**C16-20** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the decision as written.

### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X		X	4
<b>No</b>								0
<b>Abstention</b>				X		X		2



**C23-20** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X		X	4
<b>No</b>								0
<b>Abstention</b>				X		X		2

**C24-20** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X		X	4
<b>No</b>								0
<b>Abstention</b>				X		X		2

**C27-20** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X		X	4
<b>No</b>								0
<b>Abstention</b>				X		X		2

**C30-20** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the decision as revised/amended.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X		X	4
<b>No</b>								0
<b>Abstention</b>				X		X		2

**C31-20** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X		X	4
<b>No</b>								0
<b>Abstention</b>				X		X		2

**C32-20** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X		X	4
<b>No</b>								0
<b>Abstention</b>				X		X		2

**C46-20** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X		X	4
<b>No</b>								0
<b>Abstention</b>				X		X		2

**VIII. Orders to Show Cause**

**D01-20** Motion was made by Mark Finkelstein, and seconded by Richard Tomko, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

**IX. Advisory Opinions**

**A13-20** Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to make the advisory opinion public.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

**A19-20** Motion was made by Richard Tomko, and seconded by Dennis Roberts, to adopt the advisory opinion as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X		X	4
<b>No</b>								0
<b>Abstention</b>				X		X		2

**A20-20** Motion was made by Richard Tomko, and seconded by Dennis Roberts, to adopt the advisory opinion as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X		X	4
<b>No</b>								0
<b>Abstention</b>				X		X		2

**X. Other Business**

**Adoption of Resolution of Suspension in Connection with C48-18** Motion was made by Dennis Roberts, and seconded by Mark Finkelstein, to adopt the Resolution as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

## ***XI. Minutes***

Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the public minutes of the regularly scheduled meeting (public and executive) conducted on September 29, 2020.

### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X			X		X	4
<b>No</b>								0
<b>Abstention</b>				X		X		2

## ***XII. Adjournment***

At 12:36 p.m., a motion was made by Jude A. Tanella, and seconded by Richard Tomko, to adjourn.

### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Michael Collins</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X		X	X	X	X	6
<b>No</b>								0
<b>Abstention</b>								0

Submitted by:

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Jeannine Pizzigoni

Approved by:

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Kathryn A. Whalen, Director