School Ethics Commission Meeting Public Session Minutes

February 23, 2021

Chairperson Robert Bender called the meeting of the School Ethics Commission (Commission) to order at 9:35 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

Roll Call	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Present	Х	Х	Х	Х	Х	Х	6
Absent							

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/video 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.

9:37 a.m. Beth Behrend, the named Respondent in the matter docketed as C74-20, noted her attendance, but did not offer any public statement/comment.

III. Executive Session

At 9:39 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: C65-20; C72-20; C74-20; C78-20; C81-20; C84-20; C19-15 and C20-15 (Consolidated); C39-20; C52-20; C59-20; C68-20; C69-20; C70-20; C71-20; A23-20; A01-21; A02-21; A03-21; A04-21; A22-20; T06-20; Doctrine of Necessity submitted by the Berkeley Township Board of Education; update on the status of C67-20, C75-20, C76-20, C77-20, and C79-20; and update on the status of Chapter 28 regulations; 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 Dennis Roberts, and seconded by Richard Tomko, to adjourn to Executive Session to discuss the matters set forth in the foregoing Resolution.

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	X	Х	Х	Х	Х	6
No							0
Abstention							0

Vote

IV. Return to Public/Second Public Comment

At **12:07 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	Robert Bender		Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X	Х	Х	Х	Х	Х	6
No							0
Abstention							0

Vote

12:07 p.m. Felicia Spitz, the named Complainant in the matter docketed as C65-20, noted her attendance, and thanked the Commission for its work and attention to this matter

12:08 p.m. Kelly Prinz, Esquire, counsel for the named Respondent in the matters docketed as C75-20, C76-20, C77-20 and C79-20, noted her attendance, but did not offer any public statement/comment.

12:09 p.m. Beth Behrend, the named Respondent in the matter docketed as C74-20, again noted her attendance, but did not offer any public statement/comment.

V. Complaints to Review

C65-20 Motion was made by Mark Finkelstein, and seconded by Richard Tomko, to draft a decision as discussed.

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	Х	6
No							0
Abstention							0

C72-20 Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to draft a decision as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X	Х	Х	Х	Х	Х	6
No							0
Abstention							0

C74-20 Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to draft a decision as discussed.

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	Х	6
No							0
Abstention							0

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C78-20 Motion was made by Dennis Roberts, and seconded by Mark Finkelstein, to draft a decision as discussed.

Vote		Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	Х	6
No							0
Abstention							0

C81-20 Motion was made by Richard Tomko, and seconded by Mark Finkelstein, to draft a decision as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X	Х	Х	Х	Х	Х	6
No							0
Abstention							0

C84-20 Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to draft a decision as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X	Х	Х	Х	Х	Х	6
No							0
Abstention							0

VI. Decisions to Adopt as Written

C19-15 and C20-15 (Consolidated) Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	Х	6
No							0
Abstention							0

C39-20 Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to adopt the decision as written.

Jude A. Richard Vote Robert Michael Mark Dennis Total Bender Carucci Finkelstein Roberts Tanella Tomko Yes Х Х Х Х Х Х 6 No 0 Abstention 0

C52-20 Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X	Х	Х	Х	Х	Х	6
No							0
Abstention							0

C59-20 Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to adopt the decision as amended.

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X	X	Х	Х	Х	Х	6
No							0
Abstention							0

C68-20 Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	Х	6
No							0
Abstention							0

C69-20 Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	Х	6
No							0
Abstention							0

C70-20 Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to adopt the decision as written.

Vote	Robert Bender		Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X	Х	Х	Х	X	X	6
No							0
Abstention							0

C71-20 Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to adopt the decision as written.

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	Х	6
No							0
Abstention							0

VII. Advisory Opinions

A23-20 Motion was made by Dennis Roberts, and seconded by Mark Finkelstein, to draft the advisory opinion as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	Х	6
No							0
Abstention							0

A01-21 Motion was made by Dennis Roberts, and seconded by Richard Tomko, to draft the advisory opinion as discussed.

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X	Х	Х	Х	Х	X	6
No							0
Abstention							0

A02-21 Motion was made by Richard Tomko, and seconded by Jude A. Tanella, to draft the advisory opinion as discussed.

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	Х	6
No							0
Abstention							0

A03-21 Motion was made by Jude A. Tanella, and seconded by Mark Finkelstein, to draft the advisory opinion as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	Х	6
No							0
Abstention							0

Vote

A04-21 Motion was made by Dennis Roberts, and seconded by Mark Finkelstein, to draft the advisory opinion as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	Х	6
No							0
Abstention							0

A22-20 Motion was made by Dennis Roberts, and seconded by Mark Finkelstein, to adopt the advisory opinion as written.

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X	X	Х	Х	Х	Х	6
No							0
Abstention							0

VIII. Administrative Dismissals

T06-20 This matter was on the agenda for informational purposes only.

IX. Other Business

Doctrine of Necessity: Berkeley Township Board of Education. This matter was on the agenda for informational purposes only, but the Commission acknowledged receipt of this filing.

C67-20	This matter was on the agenda for informational purposes only.
C75-20	This matter was on the agenda for informational purposes only.
C76-20	This matter was on the agenda for informational purposes only.

C77-20 This matter was on the agenda for informational purposes only.

C79-20 This matter was on the agenda for informational purposes only.

Update on the status of Chapter 28 regulations This matter was on the agenda for informational purposes only.

X. Minutes

Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to adopt the minutes of the regularly scheduled meeting (public and executive) conducted on January 26, 2021.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	Х	Х	Х	Х	Х	X	6
No							0
Abstention							0

At the conclusion of the meeting, Commissioner Roberts stated that the staff "is awesome" and commended them for doing a "tremendous job" while they are working from home. He further stated that the Commission appreciates the assistance that the staff provides.

XI. Adjournment

At 12:16 p.m., a motion was made by Jude A. Tanella, and seconded by Dennis Roberts, to adjourn.

Vote	ote
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Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X	Х	Х	Х	Х	Х	6
No							0
Abstention							0

Submitted by:

Jeannine Pizzigoni

Approved by:

Kathryn A. Whalen, Director