

School Ethics Commission Meeting

Public Session Minutes

April 27, 2021

Chairperson Robert Bender called the meeting of the School Ethics Commission (Commission or SEC) 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.

I. Roll Call

Roll Call	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Present	X		X	X	X		4
Absent		X				X	2

Also in attendance were Kathryn Whalen, Director, Offices of School Ethics and Compliance, Jeannine Pizzigoni, staff member, and Jaclyn Frey, Deputy Attorney General (DAG). 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.

9:35 a.m. Sarah Aziz, the named Complainant in the matter docketed as C03-21, noted her attendance, and read the following statement:

My name is Sarah Aziz. I'm from Monroe Township. I think it's important to note that most people who file ethics complaints against board members are neither attorneys nor are they represented by attorneys and yet board members can hire professional attorneys, paid for by school boards, to defend themselves in these cases. I hope the School Ethics Commission takes steps to make sure that board members are not using school board-funded attorneys to intimidate complainants by threatening them with civil action when these complainants are acting well within their legal rights. I hope the Ethics Commission takes steps to protect complainants from retaliation. Furthermore, if during the course of their investigation of violations of the School Ethics Act, the [E]thics [C]ommission

becomes aware of possible illegal acts that are outside its purview, I hope they take it upon themselves to report these possible violations to the relevant agencies.

9:37 a.m. Tyrone Tarver, former member of the Orange School District Board of Education (Board), former 2020 Board President, supporter of Complainant in the matter docketed as C01-21, noted his attendance and stated that he is neither a Complainant nor a Respondent in this matter; however, he is present to support the Complainant in this matter. He further stated he would like to urge the Commission to deny Respondent's Motion to Dismiss. Mr. Tarver provided a certification for the Complainant, which included the facts surrounding this matter that were "laid out pretty well" and that were also supported by District policy and "precedent that it happened at our previous school board meetings." Mr. Tarver noted that Respondents did not include any "material" or note any Board policies to support their claims. Mr. Tarver further noted the only evidence that Respondents submitted was an email from Mr. Tarver, which Respondents "purposefully on purpose misinterpreted to support their decisions." Therefore, Mr. Tarver requests that the Commission "move forward with the action that was carried out in the Complaint." Mr. Tarver stated that an Open Public Records Act (OPRA) request was filed with the Board, but the OPRA request was denied "until the school board could vote and have a second vote to approve the redactions, and that's 100% against State law." According to Mr. Tarver, the District has to provide documents that are requested, and although the law allows you redactions, the Board does not "have any ground sustainable and concerning or denying the Complaint." Mr. Tarver added the denials were not based "on any legal advice." Finally, Mr. Tarver stated he reviewed the Board's meeting minutes and he noticed that the Board did not "conduct any vote to approve these minutes"; however, Complainant requested a copy of the meeting minutes to support her Complaint, which "should pretty much spell out the whole situation in support of her whole Complaint.

9:39 a.m. Christopher Treston, the named Respondent in the matter docketed as C71-18, noted his attendance, thanked the Commission for "the opportunity," and stated he was only here "to observe."

9:39 a.m. Adi Nikitinsky, the named Respondent in the matter docketed as C03-21, noted his attendance, but did not offer any public comments/statements.

9:39 a.m. Heather Garcia, the named Complainant in the matter docketed as C56-20, noted her attendance, thanked the Commission for its time, but did not offer any public comments/statements.

9:40 a.m. Liz Preuster, a member of the public, noted her attendance, but did not offer any public comment/statement.

9:40 a.m. Christine Skurbe, member of the Monroe Township Board of Education and interested party in the matter docketed as C03-21. Ms. Skurbe noted her attendance and stated, "within the Complaint my campaign was brought in and we were wrongly accused of violating campaign election laws and I wanted it duly noted that there is absolutely nothing that our campaign has done to violate any laws. We have filed all the paperwork and the accusation in there is completely false and there's no evidence to support it, so I just wanted that duly noted to the Commission. Thank you."

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: C43-19; C52-20; C73-20; C78-20; C81-20; C83-20; C84-20; C01-21; C03-21; C71-18; C56-20; C62-20; C68-20; C69-20; C70-20; C71-20; A09-21; A10-21; A11-21; A12-21; A05-21; A06-21; A07-21; A08-21; C02-21; Chairperson to select nominating committee (3 persons) to select a nominee for the position of SEC Chairperson for the term of July 1, 2021, through June 30, 2022; discussion of potential 2022 SEC meeting dates/times; update on the status of Chapter 28 regulations; and update on the status of the formation of the SEC's advisory opinion committee; 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 Jude A. Tanella, to adjourn to Executive Session to discuss the matters set forth in the foregoing Resolution.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X		X	X	X		4
No							0
Abstention							0

IV. Return to Public/Second Public Comment

At **12:00 p.m.**, a motion was made by Jude A. Tanella, and seconded by Dennis Roberts, to return to public session for the purpose of receiving public comment/testimony.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X		X	X	X		4
No							0
Abstention							0

12:01 p.m. Christopher Treston, the named Respondent in the matter docketed as C71-18, again noted his attendance, but did not offer any public comments/statements.

12:01 p.m. Jennifer Trabori, Board counsel for the matter docketed as A08-21, noted her attendance, but did not offer any public comments/statements.

12:02 p.m. Christine Skurbe, member of the Monroe Township Board of Education and interested party in the matter docketed as C03-21, again noted her attendance, but did not offer any additional public comments/statements.

12:02 p.m. Liz Preuster, a member of the public, again noted her attendance, but did not offer any public comments/statements.

V. Complaints to Review

C43-19 Motion was made by Jude A. Tanella, and seconded by Dennis Roberts, to draft a decision as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X		X	X	X		4
No							0
Abstention							0

C52-20 Motion was made by Dennis Roberts, 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		X	X	X		4
No							0
Abstention							0

C73-20 Motion was made by Mark Finkelstein, 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		X	X	X		4
No							0
Abstention							0

C78-20 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		X	X	X		4
No							0
Abstention							0

C81-20 Motion was made by Jude A. Tanella, 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		X	X	X		4
No							0
Abstention							0

C83-20 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		X	X	X		4
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		X	X	X		4
No							0
Abstention							0

C01-21 Motion was made by Dennis Roberts, 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		X	X	X		4
No							0
Abstention							0

C03-21 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			X	X		3
No							0
Abstention			X				1

VI. Decisions to Adopt as Written

C71-18 Motion was made by Jude A. Tanella, and seconded by Dennis Roberts, to adopt the decision recommending censure.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

C56-20 Motion was made by Jude A. Tanella, and seconded by Dennis Roberts, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

C62-20 Motion was made by Jude A. Tanella, and seconded by Dennis Roberts, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

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

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

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

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

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

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

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

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

VII. Advisory Opinions

A05-21 Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to adopt the advisory opinion as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

A06-21 Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to adopt the advisory opinion as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

A07-21 Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to adopt the advisory opinion as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

A08-21 Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to adopt the advisory opinion as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

A09-21 Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to adopt the advisory opinion as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X		X	X	X		4
No							0
Abstention							0

A10-21 Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to adopt the advisory opinion as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X		X	X	X		4
No							0
Abstention							0

A11-21 Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to adopt the advisory opinion as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X		X	X	X		4
No							0
Abstention							

A12-21 Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to adopt the advisory opinion as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X		X	X	X		4
No							0
Abstention							0

VIII. Administrative Dismissals

C02-21 This matter was on the agenda for informational purposes only.

IX. Other Business

Doctrine of Necessity: None.

Chairperson to select nominating committee (3 persons) to select a nominee for the position of SEC Chairperson for the term of July 1, 2021, through June 30, 2022. Chairperson Bender nominated Commissioners Mark Finkelstein, Dennis Roberts, and Jude A. Tanella to serve on the nominating committee.

Discussion of potential 2022 SEC meeting dates/times. 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.

Update on status of the formation of the SEC's advisory opinion committee. 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 March 23, 2021.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X			X	X		3
No							0
Abstention			X				1

XI. Adjournment

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

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Jude A. Tanella	Richard Tomko	Total
Yes	X		X	X	X		4
No							0
Abstention							0

Submitted by:

Jeannine Pizzigoni

Approved by:

Kathryn A. Whalen, Director