

# **School Ethics Commission Special Meeting Public Session Minutes**

**February 4, 2022**

Chairperson Robert Bender called the special meeting of the School Ethics Commission (Commission or SEC) to order at 8:34 a.m.

Notice of the special 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>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Jude A. Tanella</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Present</b>	X	X <sup>1</sup>	X	X	X	X	6
<b>Absent</b>							0

Also, in attendance were Kathryn Whalen, Esquire, Director, Office of Legal Affairs and School Ethics; Jeannine Pizzigoni, staff member; and Jaclyn Frey, Deputy Attorney General (DAG). Everyone in attendance at the special meeting participated via telephone/video.

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

At the start of the special meeting, Chairperson Bender explained to the public (who also accessed the special meeting by telephone/video) how the special meeting would be conducted. More specifically, Chairperson Bender 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 10:00 a.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.

**8:35 a.m.** Mike Davis, an interested party in the matters related to the Pleasantville Public School District, noted his attendance and stated, “Presently, I don’t have anything that is on the docket, but I just have a comment real quick. We need help down here in Pleasantville. We need some help. The Superintendent needs to go back in. Dr. Natakia Chestnut-Lee has done a wonderful job and I don’t know what the powers were that day, but I would, I’m just begging you from the bottom of my heart, that anything that’s dealing with Pleasantville, that you have a special meeting to have this conveyed, so the public, so we can get on with the business of education our children. It’s, it’s, this is out of control and the Board, the Board President, there’s a bus driver that Vice President, ... [unsubstantiated allegations] things need to change, and we have the opportunity to do so. So, I am just asking that this, all the complaints and ethical

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<sup>1</sup> Commissioner Carucci joined the special meeting at 9:20 a.m. in executive session.

complaints dealing with Pleasantville, I think at this present moment, now we need to bring the State monitor back, as much as I hate them, but that is the only governance that's gonna work."

**8:37 a.m.** Casey Gifford, counsel on behalf of Respondent in the matter docketed as C56-21, noted her attendance, but did not offer any public comments/statements.

**8:37 a.m.** Laurie Weber, Complainant in the matter docketed as C71-20, noted her attendance and stated, "The court has found that Respondent, based on the fact that no vote, that Respondent, I'm sorry the court found for the Respondent, based on the fact that no vote took place during the executive session of, Respondents took part in on the May 7th 2020 calendar. However, the law in this case was not meant to be so narrowly construed. Complainant's testimony seems to confuse the events of meeting in question. With, uh, May 20th meeting that was not documented in the evidence. So, for arguments sake I will refer to the meeting on May 7th, 2020 only. I would like to note that there are facts germane to the outcome of this case that were not accurately represented in the court's decision. A special meeting of the Ridgewood Board of Education had been called just three days after the regular public meeting that week for the sole purpose of going into executive session. The Board President stated that the litigation matter on the executive session agenda, in which Respondent had a direct personal interest, might require action to be made by the Board in public, a clear indication that the, this was not simply a status update, as Respondent stated in her testimony. The assertion that the Complainants in that case, that in the case discussed in a litigation matter, testified that he made a settlement offer at that time, but that that couldn't be accurate and it's inconsistent with a written statement by the attorney who represented him in that litigation matter, and I have that document available at the Commission's request. The matter had in fact been adjudicated in the Complainant's favor on March 13<sup>th</sup>, 2020, almost two months prior to that special meeting, it was not represented accurately. In Respondent's testimony, Respondent testified to the effect that she was unaware that complainant had prevailed and was awarded attorneys' fees, yet she had already responded to the order supplying her certification to the complainant. Days after the order was filed on March 17<sup>th</sup>. At the May 7<sup>th</sup> meeting, the Board would have been discussing its next steps. It's unfortunate that so much of this relies upon meeting minutes, or in this case the lack thereof, regarding the executive session in question. The very Board members that must be held accountable for their actions are in control of what is included or not in those minutes. To rely solely on statements by Respondent, statements that misrepresented the status of the case at that time, goes against the very heart of the School Ethics Act. Even the case work cited in the judge's decision – Friends Retirement Concepts versus Board of Education, Borough of Somerville – states that it is the public policy of the state that public officials avoid even the appearance of impropriety. The School Ethics Act was created based on the legislature's declaration that in our representative form of government, it is essential that the conduct of members of local boards of education and local school administrators hold the respect and confidence of the people and that they must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated. The law at the center of this matter, *N.J.S.A.* 18A: 12-24(c), prohibits a school official's actions where such involvement might reasonably be expected to impair their judgment, or if benefit is conferred upon the school officials or their family members. As a Board member who has continued to serve for over 26 years, including as a former Board President, Respondent should be aware that having a personal interest in the litigation matter required her recusal from any discussion of it. The public should be supported in holding her conduct to the prescribed standard. Thank you very much for hearing me out."

**8:42 a.m.** Sharon DeVito, Complainant in the matter docketed as C61-21, noted her attendance, and stated she was just listening.

**8:42 a.m.** Anthony Russo, counsel on behalf of Respondents in the matters docketed as C32-21 and C52-21, noted his attendance, but did not offer any public comments/statements.

**8:42 a.m.** Leah Adams, a concerned citizen from Pleasantville, noted her attendance and stated, “In regards to upcoming cases regarding the Superintendent and the fact that I did speak last month on the cases that were involving Pleasantville Public Schools, and just again to restate what was already said. Further, talking about the fact that the Superintendent is in need to be reinstated as soon as possible and the fact that the Board members do need to understand, and make sure that they are following the ethics policies that are put forth, and when that is not taking place as it is, it is wreaking havoc on the District, and that is a huge problem in Pleasantville. We really need urgent intervention and support of the State monitor, returning support of the Governor, getting involved, the Commissioner of Education. We need assistance and that will begin, first with reinstating the Superintendent who was unjustly put on leave. So again, we are really pushing this forward on the call and support up and really trying to put our children first and keep that a priority in Pleasantville Public Schools, thank you.”

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

At **8:44 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: C71-20; C35-21; C37-21; C50-21; C52-21; C56-21; C60-21/C68-21/C69-21/C71-21/C73-21/C74-21/C77-21/C78-21/C80-21/C81-21 (Consolidated); C61-21; C84-21; C88-21; C32-21; A02-22; Undocketed (A03-22); A01-19; A12-19; A21-20; A01-21; A03-21; A04-21; A12-21; A13-21; A16-21; A19-21, and A20-21; 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**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci<sup>2</sup></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	4
<b>No</b>							0
<b>Abstention</b>							0

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

At **10:03 a.m.**, a motion was made by Mark Finkelstein, and seconded by Dennis Roberts, to return to public session for the purpose of receiving public comment/testimony, and to vote on matters discussed in Executive Session (as appropriate).

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</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

**V. Complaints to Review**

**C71-20** 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>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

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<sup>2</sup> Commissioner Carucci was not present at this time and joined the special meeting shortly thereafter.

**C35-21** Motion was made by Jude A. Tanella, and seconded by Richard Tomko, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</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

**C37-21** Motion was made by Mark Finkelstein, and seconded by Dennis Roberts, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</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

**C50-21** Motion was made by Dennis Roberts, 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>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>							0

**C52-21** 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>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 <sup>3</sup>				X <sup>4</sup>	2

**C56-21** Motion was made by Mark Finkelstein, and seconded by Richard Tomko, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</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

**C60-21/C68-21/C69-21/C71-21/C73-21/C74-21/C77-21/C78-21/C80-21/C81-21**

**(Consolidated)** Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to draft a letter decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</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

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<sup>3</sup> Commissioner Carucci did not participate in executive session discussion of this matter due to a conflict of interest.

<sup>4</sup> Commissioner Tomko did not participate in executive session discussion of this matter due to a conflict of interest.

**C61-21** 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>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

**C84-21** Motion was made by Jude A. Tanella, and seconded by Mark Finkelstein, to draft a letter decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</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

**C88-21** Motion was made by Jude A. Tanella, and seconded by Richard Tomko, to draft a letter decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</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. Decisions to Adopt as Written***

**C32-21** Motion was made by Dennis Roberts, and seconded by Michael Carucci, to adopt the decision as written.

### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</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 <sup>5</sup>	X <sup>6</sup>	2

## ***VII. Advisory Opinions***

**A02-22** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to draft the advisory opinion as discussed.

### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</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

**A01-19** Motion was made by Richard Tomko, 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>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

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<sup>5</sup> Commissioner Tanella did not participate in the executive session discussion and/or the voting related to this matter due to a conflict of interest.

<sup>6</sup> Commissioner Tomko did not participate in the executive session discussion and/or the voting related to this matter due to a conflict of interest.



**A12-19** Motion was made by Richard Tomko, 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>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

**A21-20** Motion was made by Richard Tomko, 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>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

**A01-21** Motion was made by Richard Tomko, 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>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

**A03-21** Motion was made by Richard Tomko, 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>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

**A04-21** Motion was made by Richard Tomko, 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>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

**A12-21** Motion was made by Richard Tomko, 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>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

**A13-21** Motion was made by Richard Tomko, 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>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

**A16-21** Motion was made by Richard Tomko, 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>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

**A19-21** Motion was made by Richard Tomko, 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>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

**A20-21** Motion was made by Richard Tomko, 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>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

**Undocketed** Motion was made by Dennis Roberts, and seconded by Jude A. Tanella, to docket this advisory opinion (as A03-22), and to adopt the draft advisory opinion as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</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

**A03-22** Motion was made by Dennis Roberts, and seconded by Richard Tomko, to make the advisory opinion public.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</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

**10:10 a.m.** Laurie Weber, Complainant in the matters docketed as C71-21 and C35-21, again noted her attendance, and stated she did not hear what the Commission said about her cases. Director Whalen advised Ms. Weber that, at the conclusion of the special meeting, she would explain how cases proceed.

### ***VIII. Adjournment***

At 10:12 a.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>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, Esq.  
Director, School Ethics Commission