

School Ethics Commission Special Meeting Public Session Minutes

February 21, 2023

Chairperson Robert Bender called the special meeting of the School Ethics Commission (Commission or SEC) to order at 9:33 a.m.

Notice of the regularly scheduled 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	Carol E. Sabo	Richard Tomko	Total
Present	X	X	X	X	X	X	6
Absent							0

Also, in attendance were Kathryn Whalen, Esquire, Director, Office of School Ethics; Jeannine Pizzigoni, staff member; and Carolyn Labin and Laurie Fichera, Deputy Attorneys General (DAsG). Everyone in attendance at the meeting participated via telephone/video.

II. First Public Comment

At the start of the meeting, Chairperson Bender explained to the public (who also accessed the meeting by telephone/video) how the 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 12:30 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.

Director Whalen also advised the public as follows: individuals wishing to provide public comments/statements during First and Second Public Comment must be speaking about matters on the Commission's agenda; anyone wishing to provide public comments/statements about a matter not on the agenda should reserve their public comments/statements for New Business; anyone offering public comments/statements about a matter on the agenda is asked not to relitigate the merits of their case as the Commission's review of matters is limited to the written submissions; and everyone in attendance is asked to exercise an appropriate degree of decorum as this is a public forum.

9:36 a.m. Elizabeth Urbanski, Complainant in the matter docketed as C110-22, noted her attendance, but did not offer any public statements/comments.

9:36 a.m. Alyssa Weinstein, counsel on behalf of Respondents in the matters docketed as C110-22 and C90-22, noted her attendance, but did not offer any public statements/comments.

9:36 a.m. a member of the public noted her attendance, but did not specify a case number nor did she offer any public comments/statements.

III. Executive Session

At **9:37 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, C84-22; C93-22; C108-22; C109-22; C110-22; C123-22; C69-19 and C70-19 (Consolidated); C45-22; C80-22; C88-22; C90-22; C95-22; C96-22; C102-22; C106-22; A17-21; A02-22; A12-22; A01-23; A02-23; A03-23; C113-22; C117-22; C124-22; Doctrine of Necessity submitted by the Pitman Board of Education; DAG Fichera to present updated settlement offer in connection with C62-21; follow-up on the status of C100-22; follow-up on the status of C101-22; follow-up on the status of C107-22; and update on the status of the Commission's proposed Chapter 28 regulations (amendments and readoption); 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 Carol E. Sabo, 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	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

IV. Return to Public

At **12:02 p.m.**, a motion was made by Dennis Roberts, and seconded by Mark Finkelstein, 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

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

V. Complaints to Review

C84-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to draft a decision as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

C93-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to draft a decision as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X		X	X	X		4
No							0
Abstention		X ¹				X ²	2

¹ Commissioner Carucci had a conflict of interest and, therefore, did not participate in executive session discussion or the vote related to this matter.

² Commissioner Tomko had a conflict of interest and, therefore, did not participate in executive session discussion or the vote related to this matter.

C108-22 Motion was made by Carol E. Sabo, and seconded by Mark Finkelstein, to draft a decision as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

C109-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to draft a decision as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X ³	1

C110-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to draft a decision as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X ⁴	1

³ Commissioner Tomko had a conflict of interest and, therefore, did not participate in executive session discussion or the vote related to this matter.

⁴ Commissioner Tomko had a conflict of interest and, therefore, did not participate in executive session discussion or the vote related to this matter.

C123-22 Motion was made by Richard Tomko, and seconded by Carol E. Sabo, to draft a decision as discussed.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

VI. Decisions to Adopt as Written⁵

C69-19 and C70-19 (Consolidated) Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X	1

C45-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X	1

⁵ Commissioner Tomko was not present during the special meeting on January 31, 2023, and, therefore, did not participate in the votes related to any of the matters listed under “Decisions to Adopt as Written.”

C80-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X	1

C88-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X	1

C90-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X	1

C95-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X	1

C96-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X	1

C102-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X	1

C106-22 Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X	1

VII. Advisory Opinions

A17-21 Motion was made by Mark Finkelstein, and seconded by Richard Tomko, to make the advisory opinion public.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

A02-22 Motion was made by Mark Finkelstein, and seconded by Richard Tomko, to make the advisory opinion public.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

A12-22 Motion was made by Mark Finkelstein, and seconded by Richard Tomko, to make the advisory opinion public.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

A01-23 Motion was made by Mark Finkelstein, and seconded by Richard Tomko, to make the advisory opinion public.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

A02-23 Motion was made by Mark Finkelstein, and seconded by Richard Tomko, to make the advisory opinion public.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

A03-23 Motion was made by Mark Finkelstein, and seconded by Richard Tomko, to make the advisory opinion public.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

VIII. Administrative Dismissals

C113-22 This matter was on the agenda for informational purposes only.

C117-22 This matter was on the agenda for informational purposes only.

C124-22 This matter was on the agenda for informational purposes only.

IX. Other Business

Doctrines of Necessity: The Commission reviewed and discussed the Doctrine of Necessity submitted by the Pitman Board of Education; however, this matter was on the agenda for informational purposes only.

DAG Fichera presented an updated settlement offer in connection with C62-21. Motion was made by Mark Finkelstein, and seconded by Dennis Roberts, to accept the updated settlement offer.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

Follow-up on the status of C100-22. This matter was on the agenda for informational purposes only.

Follow-up on the status of C101-22. This matter was on the agenda for informational purposes only.

Follow-up on the status of C107-22. This matter was on the agenda for informational purposes only.

Update on the status of the School Ethics Commission's proposed Chapter 28 regulations.

Director Whalen advised the Commission that the proposed regulations were adopted at the State Board of Education meeting on February 1, 2023, and the new rules will become effective on March 6, 2023. Director Whalen further advised that between now and March 6, 2023, the Commission's staff will develop resource materials and guidance documents for public consumption.

X. Minutes

Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the minutes of the special meeting (public and executive) conducted on January 31, 2023.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X		5
No							0
Abstention						X ⁶	1

XI. Second Public Comment

Members of the public in attendance at the meeting were again invited to offer public comment/statements regarding any matter on the Commission's Agenda.

12:15 p.m. a member of the public again noted her attendance, but did not identify herself nor offer any public comments/statements.

12:15 p.m. Alyssa Weinstein, counsel on behalf of Respondents in the matters docketed as Complainant in the matter docketed as C110-22 and C90-22, again noted her attendance, but did not offer any public comments/statements.

12:15 p.m. Elizabeth Urbanski, Complainant in the matter docketed as C110-22, again noted her attendance, but did not offer any public comments/statements.

12:16 p.m. Robin Canetti, Complainant in the matter docketed as C88-22, noted her attendance, and asked a question about procedures. Director Whalen advised that she would address any questions after the meeting.

⁶ Commissioner Tomko was not present at the special meeting on January 31, 2023, and, therefore, he did not participate in the vote related to this matter.

XII. Adjournment

At 12:17 p.m., a motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adjourn.

Vote

Vote	Robert Bender	Michael Carucci	Mark Finkelstein	Dennis Roberts	Carol E. Sabo	Richard Tomko	Total
Yes	X	X	X	X	X	X	6
No							0
Abstention							0

Submitted by:

Jeannine Pizzigoni

Approved by

Kathryn A. Whalen, Esq.
Director, School Ethics Commission