
MELINDO A. PERSI,

v.

DANIEL WOSKA
BRICK TOWNSHIP BOARD OF
EDUCATION,
OCEAN COUNTY

BEFORE THE SCHOOL
ETHICS COMMISSION

Docket No. C03-14 (C25-08 on Remand)
FINAL DECISION

PROCEDURAL HISTORY

The above-captioned complaint was filed before the School Ethics Commission (Commission) on June 30, 2008. At its meeting on July 22, 2008, the Commission voted to place the complaint in abeyance, pursuant to its authority at N.J.S.A. 18A:12-32, based upon the complainant's verification that the matter entitled Melindo A. Persi v. Board of Education of the Township of Brick, Ocean County had been filed in Superior Court. In accordance with N.J.S.A. 18A:12-32, the Commission did not process the complaint.¹

By letter dated February 27, 2009, the Commission was advised that the matter entitled Melindo A. Persi v. Board of Education of the Township of Brick, Ocean County was transferred from Superior Court to the Commissioner of Education for adjudication. On February 24, 2011, the Commissioner of Education issued his final decision. Melindo A. Persi v. Board of Education of the Township of Brick, Ocean County, Commissioner of Education Decision No. 67-11, decided February 24, 2011.² By letter dated March 17, 2011, counsel for the complainant advised the Commission that the complainant wished to proceed with the prosecution of the within complaint before the School Ethics Commission.

In the complaint filed with the Commission, the complainant, Melindo Persi, alleged that Daniel Woska, a member of the Brick Township Board of Education (Board) violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. The complainant specifically alleged that the respondent violated N.J.S.A. 18A:12-24.1(a), (c), (d), (e) and (f) of the Code of Ethics for School

¹ On April 15, 2009, the State Board of Education adopted amendments to N.J.A.C. 6A:28, the regulations governing matters that come before the School Ethics Commission. These rules became effective on May 18, 2009. However, because the complaint in this matter was filed before that date, the Commission followed procedures and rendered its determinations herein in accordance with the rules that were in effect at the time the complaint was filed. To the extent this decision cites to regulations, they are the regulations that were in effect when the complaint was filed.

² In the matter before the Commissioner of Education, Persi challenged his April 30, 2008 termination by the respondent Board, contending that the Board's action violated the terms of a written employment contract which did not expire until November 20, 2008. The Board contended that Persi was employed through a verbal agreement in which the sole remuneration was \$700 per day for each day worked. The Administrative Law judge (ALJ) found, and the Commissioner concurred, that Persi had a valid and enforceable written contract with the Board, which appointed him as Interim Superintendent through November 20, 2008. The ALJ and Commission further concluded that Persi's contract required 30 days written notice and, therefore, he was entitled to 30 days reimbursement in the amount of \$21,000, reflecting the month of May 2008.

Board Members in connection with actions taken prior to the 2008 reorganization meeting of the Board.

After this complaint became active, a Motion to Dismiss in Lieu of Answer was filed on behalf of the respondent, who also alleged that the complaint was frivolous. At its meeting on May 24, 2011, the Commission denied the respondent's Motion to Dismiss the allegations that complainant violated N.J.S.A. 18A:12-24.1(a), (c), (d) and (e), but granted the respondent's Motion to Dismiss the allegation that he violated N.J.S.A. 18A:12-24.1(f). The Commission further found that the complaint was not frivolous, in accordance with the standard set forth at N.J.A.C. 6A:28-1.2.

On July 18, 2011, an answer was filed on behalf of the respondent. Since the matter regarding complainant's contract had been previously decided and not appealed, the parties agreed that the matter before the Commission be decided without plenary hearing. Instead, the tribunal relied on the transcripts of the hearing conducted at the Office of Administrative Law in Melindo A. Persi v. Board of Education of the Township of Brick, Ocean County, Commissioner of Education Decision No. 67-11, decided February 24, 2011, which would be provided to the School Ethics Commission in lieu of the Commission conducting an evidentiary hearing for C25-08.

Moreover, after counsel provided written arguments, they were afforded the opportunity to appear for oral arguments and to answer questions, as needed, at the Commission's regularly-scheduled meeting on January 24, 2012.

After hearing arguments from counsel, the Commission voted during the public portion of its meeting to find that the respondent violated N.J.S.A. 18A:12-24.1(e) for taking private action that had the potential to compromise the Board and to recommend a penalty of reprimand. The respondent appealed the February 29, 2012 decision of Commission to the Commissioner of Education on March 12, 2012, and on June 22, 2012, the Commissioner found that the decision of the Commission was not arbitrary, capricious or contrary to law, pursuant to N.J.S.A. 6A:4-4.1(a) and that reprimand was the appropriate penalty.

The respondent appealed the Commissioner of Education's Final Decision to the Appellate Division, which heard arguments on November 6, 2013 and issued its decision on December 11, 2013, remanding the matter to the Commission for two reasons:

1. For a determination defining who is the appropriate person or entity with the authority to issue a *Rice* notice to a Superintendent and to provide guidance; and
2. For a review and determination of the respondent's other actions alleged to be in violation of the Code of Ethics for School Board Members.

At its meeting on January 28, 2014, the Commission determined that the question of who has the authority to issue a *Rice* notice was outside its jurisdiction to determine, pursuant to N.J.A.C. 6A:28-1.4, and transferred the issue to the Commissioner of Education for review. On January 31, 2014, the Commission transferred that question on remand to the Office of Controversies and Disputes for review, and on June 17, 2014, the Commissioner rendered his opinion that an individual Board member does not have the authority to unilaterally direct the

issuance of a *Rice* notice to the Superintendent and although no statute or regulation defines the power, he opined that the authority for such an action belongs to the entire Board or the Board President. Commissioner of Education Decision No. 260-14A, decided June 17, 2014. Upon receipt of the Commissioner's decision, the Commission reviewed the matter in light of his opinion and determined that the respondent only violated N.J.S.A 18A:12-24.1(e) and dismissed N.J.S.A 18A:12-24.1(c) and (d).

The Commission based its review on remand on the same findings of fact set forth in its decision of February 28, 2012 and repeats them below:

FACTUAL FINDINGS

The Commission finds the following facts based on the transcripts provided:³

1. The Board of Education of Brick Township is a seven person Board. (T1 at p. 220)
2. The respondent, Daniel Woska, was at all relevant times a member of the Board.
3. Mr. Woska is no longer a member of the Board.⁴
4. The complainant, Melindo Persi, held the position of Interim Superintendent for the Brick Township School District pursuant to a contract beginning July 1, 2007 and ending November 20, 2008. His contract provided for 30 days written notice if he was to be terminated. Persi, supra at slip. op. p. 2.
5. Following the 2008 elections, the Board's reorganization meeting was scheduled for April 29, 2008. There were no other meetings of the Board subsequent to the election and prior to the reorganization meeting. The Board did not vote to issue Persi a *Rice*⁵ notice. (T1 at p. 222)
6. Three new Board members, Ms. Terebush, Mr. Pifko and Ms. Leone, had been elected that month and were scheduled to attend the reorganization meeting. (T3 at p. 72)
7. Prior to the 2008 reorganization, Mrs. McCarthy was the sitting Board President. (T1 at pp. 190, 219; T2 at pp. 140-141)

³ T1 refers to the transcript from December 9, 2009; T2 refers to the transcript from April 27, 2010; and T3 refers to the transcript from April 30, 2010.

⁴ Pursuant to N.J.A.C. 1:1-15.2, at its meeting on January 24, 2012, the Commission informed the parties that it would take official notice of the fact that the respondent is no longer a Board member, since this fact was not in the transcripts provided to the Commission. The Commission permitted counsel the opportunity to object to taking official notice of this information; there were no objections.

⁵ "Rice" notice refers to the matter entitled, Rice v. Union County Regional High School Bd. of Ed., 155 N.J. Super. 64 (App. Div. 1977), certif. den. 76 N.J. 238 (1978) which established the right of employees to obtain notice when they will be discussed by the Board of Education.

8. James Edwards was the School Business Administrator and Board Secretary. (T2 at p. 170)
9. On April 25, 2008, after the 2008 election, and during the District's spring recess, Daniel Woska called Mr. Edwards and told him he wanted a *Rice* notice prepared in order to discuss Mr. Persi's employment at the April 29, 2008 meeting. (T3 at pp. 20-22, 67)
10. Mr. Woska felt that Mr. Persi was not working in the direction that the community desired and Woska wanted Persi to go. (T3 at p. 67)
11. Mr. Woska was not the Board President at the time he directed the issuance of the *Rice* notice. He did not, however, call the Board President, Mrs. McCarthy, and discuss the matter with her or ask her to make the request. (T3 at pp. 68-69)
12. Mr. Woska had no discussions with any other sitting Board member or with Board counsel prior to taking that action. He felt it was his prerogative to be able to direct the issuance of a *Rice* notice. (T3 at pp. 69-70)
13. Prior to the reorganization meeting, Mr. Woska discussed issues related to Mr. Persi with the newly-elected members Ms. Terebush, Mr. Pifko and Ms. Leone "in passing," although there were no set meetings. (T3 at pp. 73, 75)
14. Marie Barnes was the Assistant Secretary to the Business Administrator. On Friday, April 25, 2008, during the District's spring recess, Mr. Edwards contacted Ms. Barnes and asked her if she could go to the office and prepare a *Rice* notice to Mr. Persi. Ms. Barnes prepared the notice and brought it to the post office for delivery to Mr. Persi. Also, in response to Ms. Barnes' request, Mr. Edwards agreed that Ms. Barnes could notify Mr. Persi by phone. (T2 at pp. 121-123; 135; 178-180)
15. The *Rice* notice was prepared under Ms. Barnes' name, which was unusual. Ordinarily, a *Rice* notice would be signed by the Business Administrator, the Superintendent or Assistant Superintendent. (T2 at p. 132)
16. Ms. Barnes called Mr. Persi on April 25, 2008. She apologized for disturbing him and told him that Mr. Edwards had asked her to send him a *Rice* notice. (T2 at pp. 126-127; T1 at pp. 88; 189-191; 198)
17. No other Board members contacted Mr. Edwards about issuing a *Rice* notice to Persi. Mr. Edwards did not speak to then Board President McCarthy or to any other Board members about the *Rice* notice. (T2 at p. 242, 244, 247)
18. Mr. Woska contacted Mary Ann Ceres, an assistant superintendent, prior to April 29 and asked her to attend the April 29th meeting. Mr. Woska told Ms. Ceres that the Board was unhappy with Mr. Persi, that he was going to bring up the issue of Persi's continued employment and that the Board would then need an interim superintendent. (T3 at pp. 81, 82)
19. Mr. Woska discussed with Ms. Ceres her salary and benefits package. (T3 at p. 82)

20. Mr. Woska also discussed Ceres' potential appointment with the three newly-elected Board members, Mr. Pifko, Ms. Terebush and Ms. Leone, sometime the weekend before the meeting. (T3 at p. 83)
21. Mr. Woska attended the April 29, 2008 meeting at which time the new members were sworn in. Additionally, Persi's employment was discussed during Executive Session. Persi was present for that discussion. There was a consensus of the majority of the Board to terminate Persi's employment. When the Board returned to public session, a majority of the seven members voted in the affirmative to terminate Persi's employment as of that evening. (T3 at pp. 22-26; T1 at pp. 70-71; T2 at p. 129)
22. Mr. Woska was appointed Board President at the April 29, 2008 reorganization meeting. (T1 at p. 175)
23. On April 29, 2008, the Board appointed Mary Anne Ceres, an assistant superintendent, as the Interim Superintendent. She was present that evening and in the audience. (T1 at pp. 179, 180; T3 at p. 80)
24. Ms. Ceres did not, however, attend the Board's closed session discussion on April 29, 2008. The Board was presented with her resume during Executive Session. (T3 at p. 86)
25. The same evening, the Board approved the payment of \$550 per day to Mary Ann Ceres. A resolution accompanied that appointment, but Edwards did not prepare the resolution. (T2 at p. 266, 267)
26. Although Persi did not receive written notification of the Board's intent to terminate his employment, the Commissioner of Education determined that, "the *Rice* notice, followed by [Persi's] presence at the reorganization meeting of April 29, 2008, in which he was terminated, constructively acted as reasonable notification that his contract was terminated." The Commissioner further determined that Persi was entitled to 30 days reimbursement in the amount of \$21,000 for the month of May, 2008. (Persi, Initial Decision at pp. 8-9)

ANALYSIS

As in its prior decision, the Commission continues to recognize that, pursuant to N.J.S.A. 18A:12-29(b), the complainant bears the burden of factually proving any violations of the Code of Ethics for School Board Members. Here, the complainant asserts that the respondent's conduct violated N.J.S.A. 18A:12-24.1(a), (c), (d) and (e) when, prior to the April 2008 reorganization meeting, and prior to being appointed President of the Board, the respondent, Board member Daniel Woska, directed the Assistant Board Secretary to issue a *Rice* notice to the Interim Superintendent, Melindo Persi, without the consent of the sitting Board President or any of his fellow Board members. (Complaint at paragraphs 12, 13) The complainant further alleges that prior to the 2008 reorganization meeting, the respondent surreptitiously discussed and intentionally planned removing him and "repeatedly contacted" Mary Ann Ceres to see if she were interested in replacing Mr. Persi as Superintendent. (Id. at paragraphs 15-18)

This Commission believes that its prior dismissal of the complainant's allegation that the respondent violated N.J.S.A. 18A:12-24.1(a) was fully explicated in the earlier decision and does not require further discussion nor does the remand compel it. Similarly, the remand does not direct a review of the Commission's earlier finding that the respondent violated N.J.S.A. 18A:12-24.1(e) as alleged in Mr. Persi's complaint (p.3, Paragraph 12) when Mr. Woska took private action which had the potential to compromise the Board by unilaterally directing that a *Rice* notice be issued without consulting with the Board President or the Board as a whole. Further, the Commissioner of Education's decision of June 17, 2014 fully supports and substantiates the Commission's determination that a Board member alone lacks the authority to issue a *Rice* notice, and the Commission concludes its prior ruling on that issue remains undisturbed.

As it understands the directive in this remand, the Commission confines its review to the complainant's allegations that the respondent violated N.J.S.A. 18A:12-24.1(c), (d) and (e), which state, respectively:

c. I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

d. I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.

e. I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

In its review of the findings of fact, the Commission observes that shortly before the 2008 Board reorganization meeting, the respondent embarked upon a course of action through which he secured for himself the position of Board President and, at least for that evening, a majority of Board support, willing to vote as he wanted: The removal of the Interim Superintendent, the installation of new Interim Superintendent of his choosing and new Board counsel. In preparation for these events, prior to the reorganization meeting, the respondent spoke with three members elect and discussed personnel issues related to Mr. Persi. As members-elect, these individuals were not yet sworn in and had no rights greater than those of the public; consequently, they should not have been made privy to complainant's employment information. Moreover, had he waited until they were sworn in, the respondent and the three members would have comprised a quorum for their seven-member Board, potentially in violation of the Open Public Meeting Act, N.J. S.A. 10:4, *et seq.*

The Commission also recognizes that prior to the meeting, the respondent contacted Mary Ann Ceres, an Assistant Superintendent and asked her to attend the April 29th meeting. He told Ms. Ceres that the Board was unhappy with Mr. Persi, and that he was going to bring up the issue of Persi's continued employment. At that point the Board would then need an interim superintendent. Mr. Woska discussed with Ms. Ceres her salary and benefits package. Additionally, the respondent prepared for her eventual employment without consulting the Board and without a full vetting of her qualifications. Further, the respondent also discussed Ceres'

potential appointment with the three newly-elected Board members, Mr. Pifko, Ms. Terebush and Ms. Leone, sometime the weekend before the meeting before they were sworn in as members.

For his efforts, the respondent was rewarded at the reorganization meeting of April 29, 2008. After the three new members were sworn in, the complainant's employment was discussed during Executive Session, and by a consensus of the majority, the Board voted to terminate the complainant's employment. When the Board returned to public session, a majority of the seven members voted in the affirmative to terminate the complainant's employment as of that evening.

Additionally, the respondent was appointed Board President at the April 29, 2008 reorganization meeting, Mary Anne Ceres was appointed as the Interim Superintendent and new Board Counsel was vappointed to replace the then sitting counsel.

In view of these findings of fact, the Commission begins its review on this remanded matter. In order for it to find a violation of N.J.S.A. 18A:12-24.1(c), the Commission had to examine the regulations in existence at that time. Pursuant to N.J.A.C. 6A:28-7.1, the elements of the subsection were defined as:

Policy [making] means the general principles by which a district board of education or charter school board of trustees are guided in its management of a school district of charter school.

Planning means to formulate a scheme, program or method for the accomplishment of the management of a school district or charter school.

Appraisal means the process of ascertaining the value or liability of a policy.

To prove that the respondent violated N.J.S.A. 18A:12-24.1(c) of the Code, the complainant would have to provide evidence that the respondent took **board action** to effectuate policies and plans without consulting those affected by such policies and plans, or took action that was unrelated to the respondent's duty to achieve these goals.⁶ The Commission determines that although the respondent attempted to manage the District when he discussed the complainant's personnel matters with the three members-elect and when he engaged Ms. Ceres in his plan to hire her, his actions were not Board actions. The respondent did not engage in board action to alter existing policies or plans. Nor did he assess or determine the strengths or weaknesses of an existing policy. Although he may have influenced the events which allowed him to succeed in his personal pursuits that evening, none of his action was Board action. In all that he did to interfere with the normal course of events, the respondent did so as private action that went beyond the scope of his duties and authority as a Board member. As such, the Commission finds that the complainant has not established that the respondent violated N.J.S.A. 18A:12-24.1(c).

⁶ This burden of proof was in existence at the time of the alleged violations and codified later on April 15, 2009 when the State Board of Education adopted amendments to N.J.A.C. 6A:28.

In order to find a violation of N.J.S.A. 18A:12-24.1(d), the Commission also had to examine the regulations in existence at that time. Pursuant to N.J.A.C. 6A:28-7.1, the sole element of the subsection was defined as:

Administer the schools means that a member of a district board of education or a member of a charter school board of education has become directly involved in activities or functions that are the responsibility of school personnel or the day to day administration of the school district or charter or has given a direct order to school personnel.

To prove that the respondent violated N.J.S.A. 18A:12-24.1(d) of the Code, the complainant would have to provide evidence, which includes, but is not limited to, that the respondent gave a direct order to school personnel or became directly involved in activities or functions that are the responsibility of school personnel or the day-to-day administration of the school district or charter school.⁷ The complainant has provided no such evidence in the record that the respondent ordered school personnel or became involved in the school's day-to-day functions or activities of the school, e.g. attendance, monitoring, busing, etc. Respondent's contact with the three members-elect and Ms. Ceres was outside the environs of daily school activity and the members-elect were not school employees. To the extent that Ms. Ceres is District personnel, the record reflects that she willingly accepted the respondent's plan and was not ordered to do so. Consequently, the Commission finds that the complainant has not established that the respondent violated N.J.S.A. 18A:12-24.1(d).

Finally, the Commission considered whether respondent's private action of discussing the complainant's employment with individuals not yet Board members and his promise of employment to Ms. Ceres as evidenced in his discussion with Ms. Ceres regarding her salary and benefits package violate N.J.S.A. 18A:12-24.1(e), as alleged in the complaint. The Commission determines that they do.

In order to find a violation of N.J.S.A. 18A:12-24.1(e), the Commission again had to examine the regulations in existence at that time. Pursuant to N.J.A.C. 6A:28-7.1, the sole element of the subsection was defined as:

Private action means action taken by a member of the district board of education or a member of a charter school board of trustees that is beyond the scope of duties and responsibilities of a member of a district board of education or a member of a charter school board of trustees.

To prove that the respondent violated N.J.S.A. 18A:12-24.1(e) of the Code, the complainant would have to provide evidence that the respondent made personal promises or took action beyond the scope of his duties such that, by its nature, had the potential to compromise the board. The Commission determines that respondent's private action through his discussions with the three members-elect resulted in his becoming the new Board President, leading to the termination of the complainant's employment, fully support a finding that he acted beyond the scope of his duties and responsibilities as a Board member. He was not authorized by the Board,

⁷ This burden of proof was in existence at the time of the alleged violations and codified later on April 15, 2009 when the State Board of Education adopted amendments to N.J.A.C. 6A:28.

Board counsel or Board President to involve these individuals in any discussion regarding the future of the complainant's employment with the District. In fact, he developed and put his plan in play without any advice or conversation with these principals. He acted alone. Moreover, his plan to hire Ms. Ceres was similarly developed without the Board's knowledge. The other members learned of her when they received her resume at the reorganization meeting. With his vote and the the newly sworn in members votes in the affirmative, the respondent all but guaranteed Ms. Ceres the promised position. Further, the Commission also finds that respondent's singularly, self-serving actions compromised the Board and left it at risk for litigation and the concomitant expenditure of public funds such exposure occasions. Consequently, the Commission finds that the complainant has adequately established that the respondent violated N.J.S.A. 18A:12-24.1(e).

DECISION

The Commission once again finds that respondent Daniel Woska violated N.J.S.A. 18A:12-24.1(e) of the Code of Ethics for School Board Members and dismisses the allegations that the respondent violated N.J.S.A. 18A:12-24.1(a), (c) and (d).

PENALTY

Based the foregoing and the Commission's findings and conclusions of law that the respondent, Daniel Woska, violated N.J.S.A. 18A:12-24.1(e), the Commission again recommends a penalty of reprimand and relies on the same precedent articulated in C25-08. In so doing, it reflects on Tony John et al. v. Ken Gordon, Willingboro Bd. of Ed., Burlington County, C34-08 (October 27, 2009), *aff'd* Commission of Education Decision No. 102-10ASEC, decided March 30, 2010, where the respondent, Ken Gordon, violated N.J.S.A. 18A:12-24.1(e) by directing a principal to contact other principals and tell them that a mock election was not a Board event and by directing a principal to tell other principals not to stand in the way of the mock election, notwithstanding that the Interim Superintendent had already informed the principals that the mock election was cancelled. The Commission therein found that the respondent's private action resulted in the principals receiving mixed messages about the mock election.⁸ The Commission recommended a penalty of reprimand and, on appeal, the Commissioner affirmed the finding(s) of violation as well as the penalty of reprimand.

Moreover, the Commission recommended a penalty of reprimand in G.M.B. v. Cynthia Zirkle, Cumberland Regional Board of Education, Cumberland County, C44-10 (September 27, 2011)(Modified and confirmed by Commissioner of Education Decision No. 113-12ASEC, decided March 29, 2012) where the respondent was found to have violated N.J.S.A. 18A:12-24.1(e) when she telephoned the Board office, spoke to the Business Administrator and asked what could be done about changing a student's bus pass to the residence of the child's paternal grandfather, rather than the residence of the student's mother, without the knowledge or consent of the student's mother. The Commission found that although the respondent's actions may

⁸ The Commission also found that Respondent Gordon violated N.J.S.A. 18A:12-24.1(d) and (i).

have been motivated by a misguided attempt to remedy what she believed to be a problem, she overstepped her role as a Board member.⁹ See also, Zimmerman, *supra* and Freilich, *supra*.

Pursuant to N.J.S.A. 18A:12-29(c), this decision shall be forwarded to the Commissioner of Education for review of the School Ethics Commission's recommended sanction. Parties may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's finding of violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of violation.

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of violation may file, within **13 days** from the date the Commission's decision is forwarded to the Commissioner, written exceptions regarding the recommended penalty to the Commissioner. The forwarding date shall be the mailing date to the parties, indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, NJ 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the School Ethics Commission and all other parties.

Parties seeking to appeal the Commission's finding of violation *must* file an appeal pursuant to the standards set forth at N.J.A.C. 6A:4 within **30 days** of the filing date of the decision from which the appeal is taken. The filing date shall be three days after the date of mailing to the parties, as shown below. In such cases, the Commissioner's review of the Commission's recommended sanction will be deferred and incorporated into the Commissioner's review of the finding of violation on appeal. Where a notice of appeal has been filed on or before the due date for exceptions to the Commission's recommended sanction (13 days from the date the decision is mailed by the Commission), exceptions need not be filed by that date, but may be incorporated into the appellant's briefs on appeal.

Robert Bender
Chairperson

Mailing Date: October 29, 2014

⁹ On appeal, the Commissioner of Education decided the respondent took private action which had the potential to compromise the Board when she approached the Business Administrator seeking a change in bus transportation. The Commissioner determined that the respondent's actions were *ultra vires* and constituted private action beyond the scope of her authority and duties.

Resolution Adopting Decision – C03-14 (C25-08 on Remand)

Whereas, the School Ethics Commission has considered the record in Melindo A. Persi v. Board of Education of the Township of Brick, Ocean County, 6/17/14, (#260-14A), as well as the oral arguments on remand heard on January 24, 2012; and

Whereas, at its meeting on September 23, 2014, the Commission found that respondent violated N.J.S.A. 18A:12-24.1(e) of the Code of Ethics for School Board Members and dismissed the allegations that the respondent violated N.J.S.A. 18A:12-24.1(a), (c) and (d); and

Whereas, the Commission also voted to recommend to the Commissioner of Education a penalty of reprimand; and

Whereas, at its meeting on October 28, 2014, the Commission agreed that the within decision accurately memorializes its findings and recommendations;

Now Therefore Be It Resolved, that the Commission hereby adopts the within decision on remand and directs it staff to notify all parties to this action of the decision.

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on October 28, 2014.

Joanne M. Restivo
Acting Executive Director