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WILLIAM MAXCY,

v.

THOMAS BARDINAS, MARGARET BURNS-  
MERENDA, BARBARA CARLUCCI,  
DWIGHT GERDES, STEVEN LOZOWICK,  
SUSAN MONROE, DENISE RODRIGUEZ,  
DONALD WARNET, AND JOHN YOUNG,  
*BRADLEY BEACH BOARD OF EDUCATION*,  
MONMOUTH COUNTY

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BEFORE THE SCHOOL  
ETHICS COMMISSION

DOCKET NO.: C22-18

DECISION ON  
MOTION TO DISMISS

## I. PROCEDURAL HISTORY

This matter arises from a Complaint filed on April 19, 2018, by William Maxcy (Complainant), alleging that Thomas Bardinas, Margaret Burns-Merenda, Barbara Carlucci, Dwight Gerdes, Steven Lozowick, Susan Monroe, Denise Rodriguez, Donald Warnet, and John Young (Respondents), members of the Bradley Beach Board of Education (Board), violated the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. By correspondence dated April 26, 2018, Complainant was notified that the Complaint was deficient, and in need of amendment(s) to be processed. On May 7, 2018, Complainant cured all defects and filed an Amended Complaint (Complaint) that was deemed compliant with the requirements detailed in N.J.A.C. 6A:28-6.3. The Complaint alleges that Respondents violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) in Count 1, violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) in Count 2, and violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(c) in Count 3.

On May 9, 2018, the Complaint was sent to Respondents, via regular and certified mail, notifying them that charges were filed against them with the School Ethics Commission (Commission), and advising that they had twenty (20) days to file a responsive pleading. On June 1, 2018, Respondents filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and also alleged that the Complaint is frivolous. On June 21, 2018, Complainant filed a Response to Respondents' Motion to Dismiss and allegation of frivolous filing.

The parties were notified by correspondence dated July 16, 2018, that this matter would be placed on the Commission's agenda for its meeting on July 24, 2018, in order to make a determination regarding the Motion to Dismiss and allegation of frivolous filing. At its meeting on July 24, 2018, the Commission considered the filings in this matter and, at its meeting on August 28, 2018, the Commission voted to grant the Motion to Dismiss in its entirety for failure to plead sufficient, credible facts to support a finding that Respondents violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) as alleged in Count 1, violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) as alleged in Count 2, and violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(c) as alleged in Count 3. The Commission also voted to find the Complaint not frivolous, and to deny Respondents' request for sanctions.

## II. SUMMARY OF THE PLEADINGS

### A. The Complaint

By way of background, Board Policy 5120.1, High School Assignments (Policy 5120.1), provides, in relevant part:

Pursuant to the State regulations and existing mandates concerning the sending-receiving district relationship between the [Board] and the Asbury Park and Neptune High Schools, the following procedures shall be used as a student selection process. This process shall give equal treatment to all children.

...

4. As soon as feasible after February 1, a drawing will take place to establish precedence. This drawing is to be done by a person who shall not be a member or employee of the [Board].

...

9. Application to Red Bank Regional High School [(RBRHS)] Performing Arts programs is allowed during the 8th grade year for grade 9 September enrollment; applicants are selected by [RBRHS] according to criteria determined by the RBRHS Performing Arts programs.

10. Tuition costs for students attending [RBRHS] Performing Arts Program... will be assumed by the Board...

...

15. "Performing Arts Programs"... will include only programs in Dance, Vocal, Piano, Drama, Writing, Commercial Art and Computer Technology.

With the above in mind, in Count 1 of his Complaint, Complainant states that he submitted an Open Public Records Act (OPRA) request to the Board on November 27, 2017, to "obtain information about the drawing outcomes that took place [for] the graduating class of 2017." In its December 7, 2017, response to Complainant's OPRA request, the Board acknowledged it did not conduct the lottery or drawing that was required by Policy 5120.1. By not conducting this lottery or drawing, Complainant argues that Respondents engaged in an "illegal and unethical procedure" that violated "the state mandate for their send and receive relationship with Asbury Park and Neptune High School" and, thereby, violated N.J.S.A. 18A:12-24.1(a). Complainant also argues that Respondents "willfully made a decision contrary to the educational welfare of children" and took "deliberate action to obstruct the programs and policies designed to meet the individual needs of all children" when, despite the need to provide "equal treatment" to all children, they left ten (10) students "completely unassigned" to a high school. As a result, Complainant contends that Respondents violated N.J.S.A. 18A:12-24.1(b).

In Count 2, Complainant alleges that on November 8, 2017, he submitted an OPRA request to the Board "requesting the amount of tuition" it paid to RBRHS for the 2017-2018 school year for each of the "Performing Arts Programs" referenced in Policy 5120.1, and for the amount it paid to RBRHS for those programs not authorized by/enumerated in Policy 5120.1. Based on the Board's November 20, 2017, response, Complainant argues that the Board is paying tuition to RBRHS "with no method of knowing what programs the children are enrolled in," i.e., because the invoice simply

indicates a fixed rate for tuition multiplied by the number of students attending RBRHS, and does not indicate which program the student is enrolled in at RBRHS. Also on November 8, 2017, Complainant submitted an OPRA request to RBRHS asking for the same information it requested from the Board. The response from RBRHS breaks down, by program, how much the Board pays for each student to attend RBRHS. According to Complainant, the information provided by RBRHS demonstrates that Respondents have no knowledge about what they are paying for because, as evidenced by the response to his OPRA requests, the Board is paying tuition for programs not authorized by Policy 5120.1 (e.g., engineering). Based on these facts, Complainant argues that, in violation of N.J.S.A. 18A:12-24.1(b), Respondents willfully made a decision contrary to the educational welfare of children and took deliberate action to obstruct the programs and policies designed to meet the individual needs of all children by paying for some children to attend a program not authorized by Policy 5120.1, but not affording this same opportunity to all students. In addition, by not knowing what programs the Board is paying for and, in fact, paying for programs not authorized by its own policy, Complainant argues that Respondents are violating “the discretionary power under N.J.S.A. 18A:38-15[,] and...the send and receive agreement” with Asbury Park and Neptune High School; based on these illegal and unethical procedures, Complainant argues that Respondents’ actions violated N.J.S.A. 18A:12-24.1(a).

In Count 3, Complainant asserts that Policy 5120.1 does not accurately depict or summarize the menu of “Performing Arts Programs” actually offered by RBRHS, and this inconsistency is misleading to the public and to the Board’s students who wish to attend RBRHS. By not having an accurate policy, Complainant argues that Respondents violated N.J.S.A. 18A:12-24.1(a), and also violated N.J.S.A. 18A:12-24.1(c) because they effectuated policies and plans without consulting those affected by those policies and plans.

**B. Motion to Dismiss and Allegation of Frivolous Filing**

Upon receipt of the Complaint, Respondents filed a Motion to Dismiss and alleged that the Complaint is frivolous. Regarding Count 1, Respondents first argue, as to the alleged violation of N.J.S.A. 18A:12-24.1(a), that (i) Complainant has not alleged or produced evidence of any final decision of any court of law or administrative agency finding that Respondents failed to enforce laws, rules or regulations of the State Board, or that the Board brought about changes through illegal or unethical procedures; (ii) the Commission does not have jurisdiction to determine whether, as argued by Complainant, Respondents failed to comply with Policy 5120.1; and (iii) the “drawing” referenced in Policy 5120.1 is an administrative function, not a Board function. For these reasons, Respondents argue that the alleged violation of N.J.S.A. 18A:12-24.1(a) should be dismissed. As for the alleged violation of N.J.S.A. 18A:12-24.1(b), Respondents contend that Complainant “utterly fails” to allege any factual circumstances detailing when, and how, any Respondent willfully acted contrary to the welfare of the Board’s pupils, or how they otherwise engaged in prohibited obstruction. Respondents also counter that the conduct complained of is an administrative action, and an alleged failure to comply with Board policy, both of which are outside the scope of the Commission’s jurisdiction. For these reasons, Respondents argue that the alleged violation of N.J.S.A. 18A:12-24.1(b) should also be dismissed.

In response to Count 2, Respondents argue that Complainant has, once again, failed to provide a final decision from any tribunal showing that the Board violated any law, regulation, or court order as is required to support a violation of N.J.S.A. 18A:12-24.1(a); instead, Complainant

has only alleged that the Board does not track the programs that its students attend at RBRHS. Regarding the alleged violation of N.J.S.A. 18A:12-24.1(b), Respondents argue that the Commission does not have jurisdiction over an alleged violation of the Board's policies; even still, Complainant has not alleged, with any specificity, how the Board purportedly acted "willfully," what its "impermissible" action was, and/or how it took action to obstruct programs for its students. Therefore, Respondents claim this allegation should also be dismissed.

Regarding Count 3, Respondents first argue that this allegation is untimely because Complainant was made aware of the inconsistency between Policy 5120.1 and RBRHS's policy in November 2017, but did not file his Complaint until May 7, 2018; therefore, Respondents argue he filed it beyond the one hundred eighty (180) day period of limitations. Even if not untimely, Respondents argue that the alleged violation of N.J.S.A. 18A:12-24.1(a) must be dismissed because Complainant did not cite to a final administrative or judicial decision finding a violation of Policy 5120.1. As for the alleged violation of N.J.S.A. 18A:12-24.1(c), Respondents argue that Complainant has not provided any facts to demonstrate how Respondents "took action to effectuate policies and plans." The fact that Policy 5120.1 has not been amended and is out of date cannot, according to Respondents, serve as a basis for a viable ethics violation. Moreover, compliance with, or an alleged violation of, the Board's own policy is beyond the Commission's jurisdiction. For these reasons, Respondents argue that Count 3 should also be dismissed.

Finally, Respondents assert that Complainant filed his Complaint in bad faith, solely for the purpose of harassing the Board, and in response to his discontent with his child's rejection from the RBRHS program; therefore, the allegations are frivolous, and sanctions should be imposed.

### **C. Response to Motion to Dismiss and Allegation of Frivolous Filing**

In his response to the Motion to Dismiss and allegation of frivolous filing, Complainant contends that his OPRA requests uncovered that Respondents were conducting themselves in a manner that would constitute a breach of the Code. Although Complainant tried to resolve this issue without the need to file an ethics Complaint, Respondents' failure to respond to his correspondence, or to otherwise take corrective action, left him with no choice but to file a Complaint with the Commission.

In support of his allegations that Respondents violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) in Count 1, Complainant argues that the Board's response to his OPRA response is a final decision from an administrative agency, and the response clearly establishes that the Board violated Policy 5120.1. He also argues that compliance with Board policy is within the jurisdiction of the Commissioner of Education (Commissioner). Further, by approving negligent assignments and tuition payments, Respondents' actions are contrary to the welfare of the Board's students.

In support of his allegations that Respondents violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) in Count 2, Complainant reiterates his argument in support of a violation of N.J.S.A. 18A:12-24.1(a) as above. As for the violation of N.J.S.A. 18A:12-24.1(b), Complainant argues that Respondents cannot approve and pay for children to attend RBRHS if the student is pursuing a course of study offered by a district that is part of the Board's send-receive agreement and that permitting this to occur violates the send-receive agreement.

In support of his allegation that Respondents violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(c) in Count 3, Complainant reiterates his argument in support of a violation of N.J.S.A. 18A:12-24.1(a) as above. As for N.J.S.A. 18A:12-24.1(c), Complainant argues that compliance with the content of Policy 5120.1, something that “defines law, rules and regulations,” is within the Commissioner’s jurisdiction. By failing to update its policy, and ensuring that it was in compliance with RBRHS’ course offerings, Complainant argues that Respondents failed to consult with those affected, i.e., students.

Finally, Complainant argues his complaint contains factual evidence, is not frivolous, was filed in good faith, and was not an act of “revenge.”

### **III. ANALYSIS**

#### **A. Standard for Motion to Dismiss**

In determining whether to grant a Motion to Dismiss, the Commission shall review the facts in the light most favorable to the non-moving party (Complainant), and determine whether the allegation(s), if true, could establish a violation of the Act. Unless the parties are otherwise notified, a Motion to Dismiss and any response is reviewed by the Commission on a summary basis. N.J.A.C. 6A:28-8.1 et seq. Thus, the question before the Commission is whether Complainant has alleged facts which, if true, could support a finding that Respondents violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) in Count 1, violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) in Count 2, and violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(c) in Count 3.

#### **B. Alleged Code Violations**

In his Complaint, Complainant asserts that Respondents violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) in Count 1, violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) in Count 2, and violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(c) in Count 3. These provisions of the Code of Ethics for School Board Members (Code), provide:

- a. I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures;
- b. I will make decisions in terms of the educational welfare of children and will seek to develop and maintain public schools that meet the individual needs of all children regardless of their ability, race, creed, sex, or social standing.
- 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.

Pursuant to N.J.A.C. 6A:28-6.4(a)(1), factual evidence of a violation of N.J.S.A. 18A:12-24.1(a) shall include a copy of a final decision from any court of law or administrative agency of this State demonstrating that Respondents failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools, or that Respondents brought about changes through illegal or unethical procedures.

As set forth in N.J.A.C. 6A:28-6.4(a)(2), factual evidence of a violation of N.J.S.A. 18A:12-24.1(b) shall include evidence that Respondents willfully made a decision contrary to the educational welfare of children, or evidence that Respondent(s) took deliberate action to obstruct the programs and policies designed to meet the individual needs of all children, regardless of their ability, race, color, creed or social standing.

Pursuant to N.J.A.C. 6A:28-6.4(a)(3), factual evidence of a violation of N.J.S.A. 18A:12-24.1(c) shall include evidence that Respondents took board action to effectuate policies and plans without consulting those affected by such policies and plans, or took action that was unrelated to Respondents' duty to (i) develop the general rules and principles that guide the management of the school district; (ii) formulate the programs and methods to effectuate the goals of the school district; or (iii) ascertain the value or liability of a policy.

### **Count 1**

In Count 1, Complainant argues that by not conducting the “drawing” required by Policy 5120.1, Respondents engaged in an “illegal and unethical procedure” that violated “the state mandate for their send and receive relationship with Asbury Park and Neptune High School” and, therefore, violated N.J.S.A. 18A:12-24.1(a). In addition, by leaving ten (10) students “completely unassigned” to a high school, Complainant argues that Respondents “willfully made a decision contrary to the educational welfare of children” and took “deliberate action to obstruct the programs and policies designed to meet the individual needs of all children” in violation of N.J.S.A. 18A:12-24.1(b).

Regarding the alleged violation of N.J.S.A. 18A:12-24.1(a), the Commission finds that Complainant has not provided a copy of a final decision from any court of law or other administrative agency demonstrating that Respondents, either individually or collectively, violated “the state mandate for their send and receive relationship with Asbury Park and Neptune High School” when they failed to conduct the “drawing” required by Policy 5120.1. Absent such a final decision, and because the Commission does not have jurisdiction to determine whether Respondents, either individually or collectively, violated a send-receive agreement and/or applicable law(s) or regulation(s), the Commission finds that, even if all of the facts as alleged in the Complaint are true, there is insufficient credible evidence to support a finding that Respondents violated N.J.S.A. 18A:12-24.1(a).

As for the alleged violation of N.J.S.A. 18A:12-24.1(b), the Commission agrees with Respondents that Complainant has not included evidence detailing how any individual Respondent, or the Respondents as a whole, willfully made a decision contrary to the educational welfare of children, or evidence that any individual Respondents, or the Respondents as a whole, took deliberate action to obstruct programs and policies. Therefore, the Commission finds that, even if

all of the facts as alleged in the Complaint are true, there is insufficient credible evidence to support a finding that Respondents violated N.J.S.A. 18A:12-24.1(b).

### **Count 2**

In Count 2, Complainant contends that by paying for students to attend RBRHS, but not knowing in which programs the students are enrolled and whether those programs are authorized by Policy 5120.1, Respondents violated N.J.S.A. 18A:12-24.1(b) because they willfully made a decision contrary to the educational welfare of children and took deliberate action to obstruct the programs and policies designed to meet the individual needs of all children by paying for some children to attend a program not authorized by Policy 5120.1, and not affording this same opportunity to all students. Complainant argues that by not knowing what programs the Board is paying for and, in fact, paying for programs not authorized by its own policy, Respondents are violating “the discretionary power under N.J.S.A. 18A:38-15[,] and...the send and receive agreement” with Asbury Park and Neptune High School; based on these illegal and unethical procedures, Complainant argues that Respondents’ actions also violated N.J.S.A. 18A:12-24.1(a).

Regarding the alleged violation of N.J.S.A. 18A:12-24.1(a), the Commission again finds that Complainant has not provided a copy of a final decision from any court of law or other administrative agency demonstrating that Respondents, either individually or collectively, violated “N.J.S.A. 18A:38-15 and...the send and receive agreement” when they paid tuition for students to attend RBRHS, but did not know which programs the students were enrolled in at RBRHS. Absent such a final decision, and because the Commission does not have jurisdiction to adjudicate these claims, the Commission finds that even if all of the facts as alleged in the Complaint are true, there is insufficient credible evidence to support a finding that Respondents violated N.J.S.A. 18A:12-24.1(a).

As for the alleged violation of N.J.S.A. 18A:12-24.1(b), the Commission again agrees with Respondents that it does not have jurisdiction to determine whether any individual Respondent, or Respondents as a whole, violated Policy 5120.1; instead, it is the Commissioner, not the Commission, that can determine whether the Board violated the terms of its own policy. Even if it did have jurisdiction over this claim, the Complainant has not included evidence detailing how any individual Respondent, or the Respondents as a whole, willfully made a decision contrary to the educational welfare of the children, or evidence that any individual Respondents, or the Respondents as a whole, took deliberate action to obstruct programs and policies. Therefore, the Commission finds that, even if all of the facts as alleged in the Complaint are true, there is insufficient credible evidence to support a finding that Respondents violated N.J.S.A. 18A:12-24.1(b).

### **Count 3**

In Count 3, Complainant alleges that because Policy 5120.1 does not accurately depict or summarize the menu of “Performing Arts Programs” actually offered by RBRHS, Respondents violated N.J.S.A. 18A:12-24.1(a), and also violated N.J.S.A. 18A:12-24.1(c) because they effectuated policies and plans without consulting those affected by such policies and plans.

With regard to this Count, the Commission preliminarily notes that it is not untimely. Although Respondents were not served with the Complaint until May 9, 2018, Complainant first filed a deficient Complaint on April 19, 2018. Assuming that Complainant learned of the inconsistency between the Policy 5120.1 and RBRHS's Policy on November 1, 2017, the one hundred eighty (180) day period of limitations would have expired on April 30, 2018; as a result, the Complaint was timely filed.

Nonetheless, and regarding the alleged violation of N.J.S.A. 18A:12-24.1(a), the Commission once again finds that Complainant has not provided a copy of a final decision from any court of law or other administrative agency demonstrating that Respondents, either individually or collectively, actually violated "state law" when they failed to update Policy 5120.1. Absent such a final decision, and because the Commission does not have jurisdiction to determine whether Respondents, either individually or collectively, violated Policy 5120.1 and/or a statute or regulation other than the Act and its implementing regulations, the Commission finds that even if all of the facts as alleged in the Complaint are true, there is insufficient credible evidence to support a finding that Respondents violated N.J.S.A. 18A:12-24.1(a).

As for the alleged violation of N.J.S.A. 18A:12-24.1(c), the Commission agrees with Respondents that Complainant has not provided factual evidence demonstrating what affirmative Board action was taken by Respondents, either individually or collectively, to effectuate policies and plans without consulting those affected by such policies and plans. If anything, Complainant's allegations concern the lack of action by Respondents, and the failure to act is not a basis to find a violation of N.J.S.A. 18A:12-24.1(c). Therefore, the Commission finds that even if all of the facts as alleged in the Complaint are true, there is insufficient credible evidence to support a finding that Respondents violated N.J.S.A. 18A:12-24.1(c).

Accordingly, and granting all inferences in favor of the non-moving party (Complainant), the Commission has determined that Complainant has not alleged any facts which, if true, could support a finding that Respondents violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) as alleged in Count 1, violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) as alleged in Count 2, or violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(c) as alleged in Count 3. Therefore, the Commission grants the Motion to Dismiss in its entirety.

#### **IV. REQUEST FOR SANCTIONS**

At its meeting on July 24, 2018, the Commission considered Respondents' request that the Commission find the Complaint frivolous, and impose sanctions pursuant to N.J.S.A. 18A:12-29(e). Despite Respondents' argument, the Commission cannot find evidence which might show that Complainant filed the Complaint in bad faith or solely for the purpose of harassment, delay, or malicious injury. The Commission also does not have information to suggest that Complainant knew or should have known that the Complaint was without any reasonable basis in law or equity, or that it could not be supported by a good faith argument for an extension, modification or reversal of existing law. N.J.A.C. 6A:28-1.2. Therefore, the Commission finds that the Complaint is not frivolous, and denies Respondents' request for sanctions.

## V. DECISION

Based on the foregoing, and in reviewing the facts in the light most favorable to the non-moving party (Complainant), the Commission grants the Motion to Dismiss in its entirety for failure to plead sufficient, credible facts to support a finding that Respondents violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) as alleged in Count 1, violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) as alleged in Count 2, or violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(c) as alleged in Count 3. The Commission also finds that the Complaint is not frivolous, and denies Respondents' request for sanctions.

Pursuant to N.J.S.A. 18A:12-29(b), the Commission hereby notifies Complainant and Respondents that, for the reasons set forth above, this matter is dismissed. This decision is a final decision of an administrative agency and, therefore, it is appealable only to the Superior Court-Appellate Division. See, New Jersey Court Rule 2:2-3(a).

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Robert W. Bender, Chairperson

Mailing Date: August 29, 2018

**RESOLUTION ADOPTING DECISION IN  
CONNECTION WITH C22-18**

**WHEREAS**, at its meeting on July 24, 2018, the School Ethics Commission (Commission) considered the Complaint, the Motion to Dismiss in Lieu of Answer (Motion to Dismiss) and allegation of frivolous filing, and the Response to the Motion to Dismiss and allegation of frivolous filing, filed in connection with this matter; and

**WHEREAS**, at its meeting on July 24, 2018, the Commission discussed granting the Motion to Dismiss in its entirety for failure to plead sufficient, credible facts to support a finding that Respondents violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) as alleged in Count 1, violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(b) as alleged in Count 2, or violated N.J.S.A. 18A:12-24.1(a) and N.J.S.A. 18A:12-24.1(c) as alleged in Count 3, and dismissing this matter; and

**WHEREAS**, at its meeting on July 24, 2018, the Commission discussed finding the Complaint not frivolous, and denying Respondents' request for sanctions; and

**WHEREAS**, at its meeting on August 28, 2018, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on July 24, 2018; and

**NOW THEREFORE BE IT RESOLVED**, that the Commission hereby adopts the decision and directs its staff to notify all parties of its decision.

\_\_\_\_\_  
Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on August 28, 2018.

\_\_\_\_\_  
Kathryn A. Whalen, Director  
School Ethics Commission