

***Before the School Ethics Commission
OAL Docket No.: EEC-07118-17
SEC Docket No.: C25-16
Final Decision***

***In the Matter of Lorenzo Richardson,
Jersey City Board of Education, Hudson County***

I. Procedural History

This matter arises from a Complaint that was filed on June 15, 2016 by Matthew Schapiro (Complainant or Schapiro), alleging that Lorenzo Richardson (Respondent), a member of the Jersey City Board of Education (JCBOE), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* More specifically, the Complaint alleges that Respondent violated *N.J.S.A.* 18A:12-24(g), and violated *N.J.S.A.* 18A:12-24.1(a) and *N.J.S.A.* 18A:12-24.1(e) of the Code of Ethics for School Board Members (Code).

On June 17, 2016, the Complaint was served on Respondent, via regular and certified mail, notifying him that charges were filed against him with the School Ethics Commission (Commission), and advising him that he had twenty (20) days to answer the Complaint. Respondent was provided with two extensions of time to file a responsive pleading. Ultimately, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss) on August 10, 2016, and also alleged that the Complaint was frivolous. After being provided with an extension, Schapiro filed a response to the Motion to Dismiss and allegation of frivolous filing on September 16, 2016.

At its meeting on October 24, 2016, and pursuant to *N.J.S.A.* 18A:12-32, the Commission voted to place the above-captioned matter in abeyance in light of litigation pending before the Office of Administrative Law (OAL), and which was initiated by the Respondent in this matter. Following dismissal of Respondent's claims at the OAL, the Commission docketed this matter for its meeting on February 28, 2017.

During its meeting on February 28, 2017, the Commission voted to grant the Motion to Dismiss as to the allegations that Respondent violated *N.J.S.A.* 18A:12-24.1(a) of the Code in Counts 2 and 3, to deny the Motion to Dismiss as to the allegations that Respondent violated *N.J.S.A.* 18A:12-24(g) and *N.J.S.A.* 18A:12-24.1(e) in Counts 1 and 3, to find the Complaint not frivolous, and to direct Respondent to file an Answer to Complaint (Answer) to the remaining allegations in Counts 1 and 3. On March 17, 2017, Respondent filed an Answer as directed, and the matter was then docketed for the Commission's meeting on March 28, 2017, so it could determine whether probable cause existed for the remaining allegations in the Complaint.

At its meeting on April 25, 2017, the Commission voted to find probable cause for the alleged violations of *N.J.S.A.* 18A:12-24(g) in Counts 1 and 3, and to find probable cause for the alleged violations of *N.J.S.A.* 18A:12-24.1(e) in Counts 1 and 3. Pursuant to *N.J.A.C.* 6A:28-10.7(b) through (e), the Commission also voted to transmit the above-captioned matter to the

OAL for a plenary hearing. With this transmittal, and in accordance with *N.J.A.C. 6A:28-10.7(b)(1)*, the attorney for the Commission (Petitioner) was charged with prosecuting the allegations in the Complaint for which the Commission found probable cause, and Schapiro was no longer a party.

At the OAL, hearings were held on September 20, 2018, and March 1, 2019, before Kelly J. Kirk, Administrative Law Judge (ALJ Kirk). *Initial Decision* at 3. Following hearings in this matter, the record remained open for post-hearing submissions, and ultimately closed on July 10, 2019. *Id.* On September 19, 2019, ALJ Kirk issued an Initial Decision detailing her findings of fact and legal analysis. Based on her findings of fact and legal analysis, ALJ Kirk concluded that Petitioner had proven, by a preponderance of the competent and credible evidence, that Respondent's actions violated *N.J.S.A. 18A:12-24(g)* and *N.J.S.A. 18A:12-24.1(e)*. *Id.* at 21-22. Based on her legal conclusions, and after considering the totality of the circumstances, ALJ Kirk recommended a penalty of reprimand for Respondent's ethical violations. *Id.* at 25.

The Commission acknowledged receipt of ALJ Kirk's Initial Decision on September 19, 2019; therefore, the forty-five (45) day statutory period for the Commission to issue a Final Decision was November 4, 2019.¹ Prior to November 4, 2019, the Commission requested a forty-five (45) day extension of time to issue its decision so as to allow the Commission, which only meets monthly, the opportunity to receive and review the full record, including the parties' Exceptions (if any). Pursuant to *N.J.S.A. 52:14B-10(c)* and *N.J.A.C. 1:1-18.8*, and for good cause shown, the Commission was granted an extension until December 19, 2019.

Respondent filed Exceptions to the Initial Decision on or about October 3, 2019. Petitioner did not file a reply to Respondent's Exceptions, or file its own Exceptions to the Initial Decision.²

The Commission considered and discussed the full record in this matter, including ALJ Kirk's Initial Decision and Respondent's Exceptions, at a special meeting on October 25, 2019. Thereafter, and at its meeting on November 19, 2019, and for the reasons more fully detailed below, the Commission voted to adopt ALJ Kirk's findings of fact; to adopt the legal conclusion that Respondent violated *N.J.S.A. 18A:12-24(g)*; to adopt the legal conclusion that Respondent violated *N.J.S.A. 18A:12-24.1(e)*; and to modify the recommended penalty of a reprimand in favor of a censure.

II. Initial Decision

As set forth in the Initial Decision, and after considering the documentary evidence and the testimony of Schapiro, Vidya Gangadin (Gangadin), and Ramon Rivera (Rivera) on behalf of Petitioner, and the testimony of Respondent (on his own behalf), ALJ Kirk issued the following findings of fact:

¹ Forty-five (45) days after September 19, 2019, was, technically, Sunday, November 3, 2019.

² By correspondence dated October 25, 2019, Petitioner filed a response to Respondent's Exceptions, and noted that the response was "beyond the four-day deadline for filing" a reply. Because Petitioner's response was filed beyond the timeframe provided for in the rules, and Petitioner did not seek an extension from the Commission and/or offer the position of its adversary on its untimely filing, Petitioner's response was not considered by the Commission.

1) Respondent was first elected to the JCBOE in November 2014 and began serving in January 2015. *Initial Decision* at 3. Respondent was re-elected in November 2017 to a second term for three years. *Id.* Respondent is presently the Board Vice President and the Hudson County School Boards Association President. *Id.* As a Board member, Respondent annually receives training from the NJSBA. *Id.*

2) Gangadin has been on the JCBOE since 2012. *Id.* Gangadin was Board Vice President in 2014, and Board President in 2015 and 2016. *Id.*

3) Rivera was the JCBOE attorney from 2012 to December 2017. *Id.*

4) In 2012, Marcia Lyles (Lyles) entered into a “Superintendent Agreement” with the JCBOE and, pursuant to its terms, was to serve as the Superintendent for the period of August 31, 2012, through June 30, 2016. *Id.*

5) Paragraph 11 of the “Superintendent Agreement” states:

RENEWAL OR NON-RENEWAL. The parties agree that prior to October 31, 2015, the Superintendent shall notify the Board of her desire to extend her employment on the terms offered or upon other terms upon which the parties may agree. The Board agrees that by December 31, 2015 it shall notify the Superintendent in writing whether it desires to renew this Agreement for an additional period of time, and of the terms and conditions proposed for that period. Failure to notify the Superintendent by that date of an intention to renew will mean that an offer of renewal is not being made.

Id. at 3-4.

6) In 2015, the issue of the renewal or non-renewal of the “Superintendent Agreement” was raised at one or more Board meetings. *Id.* at 4.

7) Lyles did not provide the JCBOE with notification of her desire to renew the contract by October 31, 2015. *Id.*

8) In November 2015, the JCBOE voted to have the NJSBA and Patrick Duncan (Duncan) give the non-conflicted JCBOE members an analysis of *N.J.S.A.* 18A:17-20.1 and the renewal/non-renewal [language] of the contract. The opinion of Duncan differed from that of Rivera (the JCBOE’s attorney). *Id.*

9) A JCBOE caucus meeting was held on December 15, 2015, and a JCBOE regular meeting was held on December 17, 2015. *Id.* Respondent attended the caucus meeting on December 15, 2015. *Id.* Neither Respondent nor Gerald Lyons (Lyons) (another Board member) attended the regular meeting on December 17, 2015. *Id.* Several JCBOE members were unable to vote on the issue of the contract due to conflicts of interest. *Id.* The Board did not have a quorum at its meeting on December 17, 2015. *Id.*

10) The JCBOE did not notify Lyles in writing by December 31, 2015, if it desired to renew the contract for an additional period of time. *Id.*

11) By letter dated January 19, 2016, ostensibly signed by Respondent, Lyons, Marilyn Roman, and Joel Torres, the Commissioner of Education (Commissioner) was contacted regarding “two issues that arose recently with the [JCBOE].” *Id.* at 4-5. The two-page letter details the two issues, and requests the Commissioner’s assistance and guidance. *Id.* at 5. Neither Gangadin nor Rivera was copied on the letter. *Id.*

12) At the January 2016 JCBOE meeting, Lyons proposed a resolution which stated, in pertinent part, the JCBOE “hereby approves the renewal of the Superintendent’s employment contract for a term to be decided before the end of the current contract.” *Id.*

13) By letter dated February 5, 2016, Ronald Greco, Jr., President of the Jersey City Education Association (JCEA), wrote to Gangadin, with a copy to all JCBOE members, enclosing a legal opinion on the contract from JCEA attorney Louis Bucceri, Esq., and requesting Gangadin enter it on the agenda as an item of communication. *Id.* In relevant part, the letter reads “...the superintendent has been given written notice of non-renewal which satisfies the statute’s terms and prevents an automatic renewal of her employment ... The contract clearly advises her [Lyles] that she has not been renewed by virtue of the Board’s failure to convey any intention to the contrary prior to December 31, 2015.” *Id.*

14) A JCBOE regular meeting was held on February 18, 2016. *Id.* at 6. The February 18, 2016, minutes reflect that Richardson was present; Lyons was present “via telephone commencing at the start of the meeting”; and that Lyons voted on the adoption of the minutes and on the motion for the JCBOE to go into closed session to discuss confidential and legal matters. *Id.* The minutes reflect that, following closed session, Lyons experienced sporadic telephone connection problems. *Id.* Thereafter, the meeting was called back to order. *Id.* Per the minutes, Resolution 9.15 states, in pertinent part, the JCBOE “hereby approves the renewal of the Superintendent’s employment contract for a term to be decided before the end of the current contract.” *Id.* The minutes reflect that Respondent made a motion to add Resolution 9.15 to the agenda, and that there was “extensive disagreement” between Respondent and Rivera on the interpretation of the terms of the contract and whether it had automatically renewed at the end of December 2015. *Id.* Rivera further stated that adding the resolution “would be contrary to law and to the contract.” *Id.*

15) The minutes from the February 18, 2016, meeting also note that Gangadin indicated to Respondent, at three different times, that complaints or issues about the contract and its renewal should be sent to the Commissioner. *Id.* at 6-10, and 18.

16) Rivera advised Respondent at the February 18, 2016, meeting that if he appealed to the Commissioner, he would need “a majority of the Board, if eligible to agree to do so as Board members did not individually, only as a whole.” *Id.* at 9.

17) There was no motion made to allow Respondent to file a petition of appeal with the Commissioner, nor a formal vote of the JCBOE authorizing Respondent to file the petition of appeal. *Id.* at 18.

18) By letter dated February 22, 2016, Respondent wrote a letter to the Commissioner “requesting an investigation and immediate action regarding procedural and conduct issues

around the Superintendent contract renewal for Jersey City Public Schools.” *Id.* at 10. Neither Gangadin nor Rivera was copied on the letter. *Id.* at 18.

19) By letter dated February 24, 2016, M. Kathleen Duncan (NJDOE Director) acknowledged receipt of Respondent’s letter, and advised Respondent that appeals before the Commissioner had to be made in accordance with the requirements set forth in *N.J.A.C. 6A:3-1.1 et seq.* *Id.* at 10.

20) On or about February 26, 2016, Respondent filed a Petition of Appeal captioned, “JCBOE MEMBER LORENZO RICHARDSON, Petitioner v. JCBOE PRESIDENT VIDYA GANGADIN; JCBOE BOARD ATTORNEY RAMON RIVERA, Respondents.” *Id.* at 11. By letter dated February 26, 2016, Respondent wrote a letter to the Commissioner and the NJDOE Director enclosing a letter brief in support of his motion for emergent relief. *Id.*

21) On June 15, 2016, Schapiro filed an ethics complaint (this matter) against Respondent. *Id.* After an initial failed attempt, Schapiro was elected as a JCBOE member, and his slate was aligned against Respondent’s slate. *Id.*

22) In terms of credibility, ALJ Kirk found that the testimony of the witnesses reveals that the issue of the renewal/non-renewal of the contract was a contentious one. *Id.* at 17. Respondent’s testimony was not entirely consistent with the documentary evidence, as the record does not reflect that Rivera instructed or advised Respondent to file the petition. *Id.* Further, although he testified that both Gangadin and Rivera had instructed him to take the matter up with the Commissioner, neither was copied on his letter to the Commissioner. *Id.* It was also clear that there was some animus between the parties to the petition. *Id.*

23) Based upon the record and testimony about what transpired at the JCBOE meetings, Respondent, and at times other JCBOE members, attempted to get the JCBOE to vote on the issue of renewal/non-renewal of the contract. *Id.* While those efforts may have been thwarted for personal, political, legal, or other reasons, the fact remains that Respondent was unable to get the matter on the JCBOE agenda for a vote. *Id.* Respondent’s opinion on the contract issue differed from Rivera’s, and Respondent was convinced that his opinion on the contract issue was correct. *Id.*

Based on the findings of fact as set forth above, ALJ Kirk issued the following ***conclusions of law:***

According to ALJ Kirk, and based on the language set forth in *N.J.S.A. 18A:12-24(g)*, Respondent is a Board member, and the petition of appeal he filed with the Commissioner was a “proceeding involving the school district in which he serves,” as it involved both the JCBOE and the JCBOE’s Superintendent. *Id.* at 21. In addition, and by statute, Respondent, “a school official and board member, cannot represent any person or party other than the school board or school district in connection with a proceeding involving the Jersey City School District.” *Id.* at 21. Further, Respondent’s “petition [of appeal] does not reflect that he is acting merely as a Jersey City resident, but rather as a JCBOE member.” *Id.* However, Respondent “can only represent the JCBOE if properly authorized to do so, and the record is devoid of any evidence of the JCBOE action authorizing [Respondent] to file the petition.” *Id.* Therefore, ALJ Kirk concluded Respondent **violated *N.J.S.A. 18A:12-24(g)***. *Id.*

As to the alleged violation of *N.J.S.A. 18A:12-24.1(e)*, and even accepting Respondent's testimony that he believed Gangadin had instructed him to take the matter to the Commissioner, that NJDOE Director Duncan's letter and the NJDOE's website sanctioned the filing of a petition of appeal, "none of the foregoing supersedes his obligation to comply with the Act." *Id.* at 22. Moreover, "[a]uthority [to file] rested with the JCBOE, and the action he took was private action beyond the scope of his authority as a JCBOE member." *Id.* Furthermore, Respondent's petition of appeal details what he perceived as "improper actions" of Gangadin and Rivera, and revealed contention amongst members of the JCBOE, including Respondent's belief that actions taken by Gangadin and Rivera were "patently arbitrary, capricious and unreasonable and in violation of New Jersey's Education laws." *Id.* According to ALJ Kirk, such accusations by a Board member, in a public document, "could damage the public confidence in the JCBOE or create a justifiable impression among the public that its trust was being violated," and Respondent's actions interfered with the JCBOE's discharge of its duties. *Id.* Regardless of why the JCBOE "declined or failed to move the contract issue onto the agenda," Respondent unilaterally attempted to circumvent the prerogative of the JCBOE. *Id.* Consequently, ALJ Kirk concluded Respondent **violated N.J.S.A. 18A:12-24.1(e)**. *Id.*

In terms of a **penalty**, ALJ Kirk found that the cases offered by Petitioner in support of suspension or censure were "distinguishable from this case and not persuasive in terms of penalty." *Id.* at 24. In this regard, ALJ Kirk notes that Respondent "was convinced that his opinion on the contract issue was correct and that the action by the JCBOE was required or there would be repercussions." *Id.* at 24. In this regard, when the JCBOE "failed to act on the contract issue, he made the ill-advised decision to file a petition [of appeal] to try and force the JCBOE to act on the contract issue." *Id.* at 25. While Respondent's conduct "technically violates the Act," it does not "rise to the level of conduct for which a censure or suspension is warranted." *Id.* ALJ Kirk continued, "it does not appear that [Respondent's] actions were self-serving in nature and the petition [of appeal] does not reflect [Respondent's] opinion or position as to the merits of whether ... Lyles should have been renewed or not." *Id.* Respondent's conduct, considering the totality of the circumstances, is tantamount to *per se* violations of *N.J.S.A. 18A:12-24(g)* and *N.J.S.A. 18A:12-24.1(e)*, and not "overtly unethical or conflicted." *Id.* Nevertheless, ALJ Kirk found that Respondent's conduct "cannot be condoned, as it would set a bad precedent for school board members to simply file a petition [of appeal] any time a member's opinion was at odds with that of a board or its individual members." *Id.* As a result, ALJ Kirk concluded that a **reprimand** was appropriate. *Id.*

III. Exceptions

On or about October 3, 2019, Respondent filed Exceptions to ALJ Kirk's Initial Decision. Although Respondent does not take exception to ALJ Kirk's findings of fact, he does take exception to the conclusion of law that he violated *N.J.S.A. 18A:12-24(g)* and *N.J.S.A. 18A:12-24.1(e)*. Respondent claims that, as a Board member, he "repeatedly and consistently" tried to get the Board to consider and vote on the renewal/non-renewal of the Superintendent, which spanned several meetings and months. His concern, as ALJ Kirk noted, was "that the [Board] would be sued because it did not perform its statutory duty [by voting on the contract], and he was concerned that there would be monetary liability for the [Board's] lack of action." Furthermore, Respondent emphasizes that, as the ALJ notes, "[Respondent] also testified that his sole motive in filing the petition [of appeal] was that he wanted the contract to be voted on so the [Board]

would be in compliance with applicable law.” Respondent claims that there is “absolutely no evidence as to any other interest or motive in [his] thinking and analysis here.” Respondent agrees with the ALJ’s conclusion that “any efforts by [Respondent] relative to getting the contract issue on the [Board] agenda were frustrated or thwarted, and he had no recourse.”

Respondent maintains he was “acting in good faith in an effort to protect the Board from liability.” Respondent notes that the ALJ’s “most important finding” was that “[Respondent’s] conduct, considering the totality of the circumstances, is ... not overtly unethical or conflicted” and emphasizes that this conclusion “should determine the outcome and result in this matter.” Respondent also points out that, because he was acting in good faith, there should not be a finding that he violated the cited provisions of the Act. Consequently, Respondent claims that the Commission should adopt the factual findings, but should modify the legal conclusions to find that he did not violate *N.J.S.A. 18A:12-24(g)* and/or *N.J.S.A. 18A:12-24.1(e)*.

Petitioner did not file a reply to Respondent’s Exceptions, and did not file its own Exceptions to the Initial Decision.³

IV. Analysis

Upon careful and independent review of the full record, the Commission adopts ALJ Kirk’s findings of fact, as well as the legal conclusions set forth in the Initial Decision. More specifically, and regarding the violation of *N.J.S.A. 18A:12-24(g)*, the Commission agrees that when Respondent - a school official within the meaning of the Act - filed a petition of appeal with the Commissioner, he instituted a proceeding adverse to the District in which he serves as a member of the Board. Further exacerbating the filing of his petition of appeal is the fact that Respondent initiated the proceeding in his capacity as a Board member. By representing himself (in his capacity as a Board member) in a proceeding against the Board President and the Board’s attorney, and challenging the actions that they took in their respective official capacities regarding Board business, Respondent unequivocally violated *N.J.S.A. 18A:12-24(g)* (“No school official...shall represent any person or party other than the school board or school district in connection with ... any proceeding involving the school district in which he serves...”).

In addition, and with regard to the violation of *N.J.S.A. 18A:12-24.1(e)*, by filing a petition of appeal with the Commissioner in his capacity as a Board member, Respondent exceeded the scope of his authority as a Board member. As ALJ Kirk correctly noted, no individual member of the Board has the authority to file an action or proceeding on behalf of the Board; instead, the authority to do so resides with the entity, as a whole. By filing a petition of appeal without the requisite authority to do so, Respondent clearly exceeded the scope his duties, and engaged in private action. Furthermore, by alleging, among other things, that Gangadin and Rivera engaged in “improper actions” and that their actions were “patently arbitrary, capricious and unreasonable and in violation of New Jersey’s Education laws,” the Commission concurs with ALJ Kirk that such accusations by Respondent, in a public document, “could damage the public confidence in the JCBOE or create a justifiable impression among the public that its trust was being violated.” *Initial Decision* at 22. In this way, the Commission agrees that Respondent’s filing constituted action which had the potential to compromise the Board in violation of *N.J.S.A. 18A:12-24.1(e)*.

³ See footnote 2, *supra*.

V. Decision

After review, the Commission determines to **adopt** ALJ Kirk's findings of fact; to **adopt** the legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(g); and to **adopt** the legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24.1(e).

VI. Penalty

Based upon the conclusion that Respondent violated *N.J.S.A.* 18A:12-24(g) and *N.J.S.A.* 18A:12-24.1(e), and in light of the totality of the circumstances, including Respondent's stated belief that he was acting in good faith to ensure that the Board was compliant with its statutory obligations, ALJ Kirk determined that reprimand was the most appropriate sanction for Respondent's ethical violations. After consideration, and for the reasons more fully detailed below, the Commission **modifies** the recommended penalty of a reprimand to a **censure**.

Although ALJ Kirk found persuasive that Respondent "was convinced" his opinion on the contract issue was correct, that he (Respondent) believed that action by the JCBOE was required or there would be legal ramifications, and that Respondent's actions were not "self-serving," the Commission finds other facts in the record more compelling and sufficient to justify a penalty of a censure.

In this regard, the Commission notes that Respondent has been a Board member for more than four (4) years, and receives annual ethics training; therefore, he should be acutely aware of his ethical obligations under the Act. Further, and regardless of whether Gangadin and/or an employee of the NJDOE indicated to Respondent that filing a petition of appeal was a possible avenue of redress, Respondent was specifically advised by Rivera that it was not possible for him to file a petition of appeal with Commissioner unless he had approval from, and the support of, a majority of the Board. In other words, Respondent was specifically advised by counsel that he did not have the authority to file with the Commissioner; nonetheless, he did so. Of note, when Respondent filed his petition of appeal with Commissioner, he failed to copy both Gangadin and Rivera on his filing, thus suggesting that he did not want either to be aware of his filing.

If Board members, such as Respondent, only receive a reprimand when they file a legal proceeding against the Board on which they serve whenever they disagree with the decision or action of the Board, there is no incentive for Board members to curb this behavior. Integral to the duties and responsibilities of a Board member is to collaborate with fellow members and to reach a decision that is acceptable to a majority of the Board. Disagreements and non-unanimous decisions are commonplace among boards of education. If a lone Board member is unable to convince his or her fellow Board members of his or her position, then the Board member's recourse is to address the issue in public, or to vote against a resolution or action that he may disagree with. The recourse, is not, for Board members to take matters in their own hands and to file a public proceeding against other members of the Board. Moreover, the penalty for such unethical behavior cannot be a reprimand. Without the imposition of a greater sanction, there is no deterrent to Board members taking such unilateral action, even if only to show the public that they disagree with the actions of the Board. If such overt divisiveness is not publicly sanctioned, it will undermine the work of the Board and the fidelity of its decision making process.

Pursuant to *N.J.S.A.* 18A:12-29(c), this decision shall be forwarded to the Commissioner for review of the Commission's recommended sanctions. Parties may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's findings of violations of the Act; or 3) file both exceptions to the recommended sanction and an appeal of the Commission's findings of violations of the Act.

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

Parties seeking to appeal the Commission's findings of violations *must* file an appeal pursuant to the standards set forth at *N.J.A.C.* 6A:4-1, *et seq.* within **thirty (30) days** of the filing date of the decision from which the appeal is taken. The filing date shall be three (3) days after the mailing date to the parties, as indicated below. In such cases, the Commissioner's review of the Commission's recommended sanctions will be deferred and incorporated into the Commissioner's review of the findings of violations on appeal. Where a notice of appeal has been filed on or before the due date for exceptions to the Commission's recommended sanction (thirteen (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 brief on appeal.

Robert W. Bender, Chairperson
School Ethics Commission

Mailing Date: November 20, 2019

***Resolution Adopting Decision
in Connection with C25-16***

Whereas, by correspondence dated May 17, 2017, the School Ethics Commission (Commission) transmitted the above-referenced matter as a contested case to the Office of Administrative Law (OAL) for a hearing; and

Whereas, following hearings on September 20, 2018, and March 1, 2019, Kelly J. Kirk, Administrative Law Judge (ALJ Kirk) issued an Initial Decision dated September 19, 2019; and

Whereas, in her Initial Decision, ALJ Kirk issued findings of fact and, based on those findings, concluded that Respondent violated *N.J.S.A. 18A:12-24(g)* and *N.J.S.A. 18A:12-24.1(e)*; and

Whereas, based on her legal conclusions, ALJ Kirk determined that a penalty of reprimand was warranted; and

Whereas, Respondent filed Exceptions with the Commission on or about October 3, 2019; and

Whereas, at a special meeting on October 25, 2019, the Commission reviewed and discussed the record, including ALJ Kirk's Initial Decision and Respondent's Exceptions; and

Whereas, at a special meeting on October 25, 2019, the Commission discussed adopting the findings of fact from the Initial Decision; adopting the legal conclusion that Respondent violated *N.J.S.A. 18A:12-24(g)*; adopting the legal conclusion that Respondent violated *N.J.S.A. 18A:12-24.1(e)*; and modifying ALJ Kirk's recommended penalty of a reprimand in favor of a censure; and

Whereas, at its meeting on November 19, 2019, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its special meeting on October 25, 2019; and

Now Therefore Be It Resolved, the Commission hereby adopts the within decision as a Final Decision and directs its staff to notify all parties to this action of its decision herein.

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its meeting on November 19, 2019.

Kathryn A. Whalen, Director
School Ethics Commission