

Before the School Ethics Commission
Docket No.: C31-21
Decision on Motion to Dismiss

**Heather Henry,
Complainant**

v.

**Stacey Price-Munson,
Westwood Regional Board of Education, Union County,
Respondent**

I. Procedural History

This matter arises from an amended Complaint that was filed on August 12, 2021, by Heather Henry, (Complainant), alleging that Stacey Price-Munson (Respondent), a member of the Westwood Regional Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.* The Complaint avers that Respondent violated *N.J.S.A. 18A:12-24.1(c)* of the Code of Ethics for School Board Members (Code).

On August 13, 2021, the Complaint was served on Respondent, by electronic mail, notifying Respondent that charges were filed with the School Ethics Commission (Commission), and advising that Respondent had twenty (20) days to file a responsive pleading.¹ On September 1, 2021, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), which included an allegation that the Complaint is frivolous. On September 10, 2021, Complainant filed a response to the Motion to Dismiss as well as a response to the frivolous allegation.

On November 9, 2021, the parties were subsequently notified that this matter would be placed on the Commission's agenda for its meeting on November 16, 2021, to decide Respondent's Motion to Dismiss. At its meeting on November 16, 2021, the Commission considered the filings in this matter, including whether Complainant has pleaded sufficient, credible facts to support a finding that Respondent violated *N.J.S.A. 18A:12-24.1(c)*.

A. *Alleged Code Violations*

In the Complaint, Complainant contends that Respondent violated *N.J.S.A. 18A:12-24.1(c)*. The relevant Code provision is as follows:

¹ Due to the ongoing Coronavirus (COVID-19) pandemic, service of process was effectuated by the Commission through electronic transmission only.

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.

B. *Jurisdiction of the Commission*

In reviewing the allegations in this matter, the Commission notes that its authority is limited to enforcing the Act, *N.J.S.A. 18A:12-21 et seq.*, a set of minimum ethical standards by which all school officials must abide. In this regard, the Commission has jurisdiction only over matters arising under the Act, and it may not receive, hear, or consider any matter that does not arise under the Act, *N.J.A.C. 6A:28-1.4(a)*.

II. Summary of the Pleadings

A. *The Complaint*

Complainant alleges Respondent violated the Act when she posted incorrect information about the Board's vote to rename the high school football stadium's bleachers after a well-known member of the community on a high school alumni social media site. Complainant alleges that Respondent's posting on the social media site, which included public and private conversations with community members concerning the renaming proposal violated *N.J.S.A. 18A:12-24.1(c)* because her actions constituted activity that went beyond the policy making, planning and appraisal duties to which her conduct is to be confined.

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

Following receipt of the Complaint, Respondent filed a Motion to Dismiss and alleged the complaint was frivolous. In her response, Respondent argues that her social media posts were not false, misleading, or inaccurate but rather demonstrate a Board member communicating with the public and encouraging the public to weigh in on the renaming proposal. Respondent argues Complainant failed to provide any evidence that her social media posts about the renaming proposal was taking Board action in violation of the Act. As such, Respondent argues the Complaint is frivolous because Complainant filed the Complaint in bad faith to harass Respondent following her vote against renaming the facility after the community member.

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

In response to the Motion to Dismiss and allegation of frivolous filing, Complainant reaffirms the allegation that Respondent's social media posts were false, and that Respondent was asked multiple times to correct her postings. Complainant argues the Complaint was filed to ensure that the process for future renaming proposals are considered fairly and without misinformation disseminated by a member of the Board.

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 asserted sufficient facts which, if true, could support a finding that Respondent violated *N.J.S.A.* 18A:12-24.1(c).

As set forth in *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 the respondent(s) 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:

- (i.) Develop the general rules and principles that guide the management of the school district or charter school;
- (ii.) Formulate the programs and methods to effectuate the goals of the school district or charter school; or
- (iii.) Ascertain the value or liability of a policy.

Here, Complainant claims Respondent “intentionally and knowingly interfered” with a Board vote to rename the high school stadium bleachers, by “publicly posting incorrect information” regarding the vote and engaging in public and private conversations with the public on the Westwood High School Alumni (WHSA) Facebook page. Complainant maintains that Respondent incorrectly posted that a Board meeting included a discussion and vote on renaming the high school football field complex after a community member when in fact the application “clearly” specified the renaming was intended to rename only the bleachers after the community member. Complainant further maintains that Respondent expressed “her own opinion” on the subject and encouraged the public to write/email the Board regarding their thoughts/opinions on the subject. According to Complainant, the Board was inundated with “hundreds of comments and solicited emails from out-of-district individuals aimed at “influencing the [B]oard’s vote.” As such, Complainant argues Respondent’s actions went beyond policy making in violation of *N.J.S.A.* 18A:12-24.1(c).

In response and as part of the Motion to Dismiss, Respondent argues her social media posts “show an elected official discussing an issue of public importance with the public and encouraging the public to be heard on the issue.” According to Respondent, her actions do not constitute a violation of the Act and if the Complaint “move[s] forward, then it will severely curtail the ability of board of education members to discuss issues with the public and prevent them from commenting on issues outside of public meetings.” Respondent contends Complainant did not provide any evidence to support that Respondent “took Board action to effectuate policies and plans without consulting those affected by the polices and plans.” Moreover, Respondent argues the Complaint does not contain any allegations that Respondent “took or was involved in any Board action beyond voting on the facilities naming application.”

On the contrary, Respondent maintains that Complainant's allegations demonstrate that Respondent's posts were "consulting with those affected by the proposal." Respondent argues although Complainant asserts that Respondent was discussing the proposal with "mostly people who live out of [S]tate/[D]istrict, there can be no dispute that an alumni Facebook page for graduates of [Westwood] is an appropriate forum to consult those affected by the facilities naming proposal." Respondent further contends that Complainant did not allege "or indicate that Respondent took action that was unrelated to her duty to develop rules" Respondent further argues that Complainant did not show that Respondent's "private Facebook posts could be considered Board action." Respondent asserts Complainant did not provide any evidence to support that Respondent's post was "false, incorrect, or misleading information about the vote." According to Respondent, Complainant argues that Respondent's "misinformation" was that Respondent stated, "the vote was to name the entire football field complex when in fact the application was only for the stadium/bleachers which was clearly stated on the application." Respondent maintains that Complainant did not provide any evidence that Respondent said the vote was to rename the football field complex, and even if she did it "is a meaningless distinction without difference." Respondent notes, based on the "publicly available images" of the complex, whether the area can be considered a "'stadium' is certainly open to interpretation and debate." Respondent further notes that Complainant did not provide any evidence to demonstrate that the Board was confused "about the naming application" that was submitted, nor that had Respondent referred to the renaming of the "stadium" instead of the "field" the Board would have voted differently. Respondent maintains that Complainant did not provide "a scintilla of evidence" that any Board member's vote was influenced by any of the comments on the WHSA FB page. Respondent asserts Complainant did not correctly describe the naming application and, therefore, Respondent "could not have misrepresented it by referring to it as the 'field.'" Respondent argues that Complainant stated, "'the application was only for the stadium/bleachers' and that this 'was clearly stated on the application.'" According to Respondent, the application refers to the high school "stadium" and "does not mention the 'bleachers.'" Therefore, Respondent maintains Complainant's language shows that the terms "field" and "stadium" could be "interchangeable" and that "no one could possibly have been deceived by any perceived lack of precision in the terminology." Respondent argues that Complainant did not provide any facts to support a violation of *N.J.S.A. 18A:12-24.1(c)* and, therefore, the Complaint should be dismissed. Additionally, Respondent asserts the Complaint is *frivolous* because Complainant "attempts to elevate a meaningless distinction of whether the Board was voting to name the 'field' or the 'stadium' into litigation under the Act." Respondent maintains Complainant did not provide a "single fact" to support a violation of *N.J.S.A. 18A:12-24.1(c)*. Respondent contends Complainant filed the Complaint in bad faith to harass Respondent for her vote against the facilities naming application.

In response to the Motion to Dismiss and allegation of frivolous filing, Complainant notes that the "bleachers" and "stadium" are synonymous as evidenced by the labeled picture that she provided and Respondent's reference to the renaming of the football field "caused confusion and initiated a firestorm of negativity as people were now confused thinking the entire football field was going to be painted" Complainant further notes Respondent was "asked more than once to correct her meeting announcement post" and she did not and she further "engage[d] others on the post, publicly commenting she would both privately message them, and she would vote against the 'application for the field.'" Complainant reaffirms Respondent's social media posts were "100% false when she stated the vote would be on naming the Field- the

application before her and the Board clearly stated Stadium.” Complainant argues there were many options on the renaming application and the choice to just rename the stadium “was very deliberate as to leave much larger facilities and buildings open for future honorees.” Complainant further argues Respondent’s frivolous allegation is “ridiculous” and her intention in filing the Complaint was “to ensure the next person who submits an application before the [B]oard gets a fair and unbiased vote taken by an informed [B]oard. Not one that was tainted by public reaction to misinformation supplied by a [B]oard member.”

After a review of this alleged violation as pled in the Complaint, the Commission determines that even if the facts as argued are proven true by sufficient credible evidence, they would not support a finding that Respondent’s actions violated *N.J.S.A. 18A:12-24.1(c)*. While the Commission acknowledges the ubiquity and utility of social media platforms, it reminds school officials to be mindful when engaging with members of the public on matters directly or indirectly related to district operations. Having said that, the Commission determines that Complainant failed to provide factual evidence that Respondent’s postings, which included sharing information with the public – regardless of whether the individuals were residents of the school community - about the renaming proposal went beyond the Respondent’s policy making duties as a Board member. Therefore, the Commission determines the alleged violation of *N.J.S.A. 18A:12-24.1(c)* should be dismissed.

IV. Decision

Based on the foregoing, and in reviewing the facts in the light most favorable to the non-moving party (Complainant), the Commission voted to **grant** the Motion to Dismiss because Complainant failed to plead sufficient, credible facts to support a finding that Respondent violated *N.J.S.A. 18A:12-24.1(c)*. The Commission also voted to find that the Complaint is not frivolous.

Pursuant to *N.J.S.A. 18A:12-29(b)*, the Commission hereby notifies Complainant and Respondent 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)*.

Robert W. Bender, Chairperson

Mailing Date: December 14, 2021

***Resolution Adopting Decision
in Connection with C31-21***

Whereas, at its meeting on November 16, 2021, the School Ethics Commission (Commission) considered the Complaint, the Motion to Dismiss in Lieu of Answer (Motion to Dismiss), the allegation that the Complaint was frivolous, and the response to the Motion to Dismiss submitted in connection with the above-referenced matter; and

Whereas, at its meeting on November 16, 2021, the Commission discussed granting the Motion to Dismiss in its entirety for failure to plead sufficient, credible facts to support the allegations that Respondent violated *N.J.S.A.* 18A:12-24.1(c); and

Whereas, at its meeting on November 16, 2021, the Commission discussed finding the Complaint not frivolous; and

Whereas, at its meeting on December 14, 2021, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on November 16, 2021; and

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

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on December 14, 2021.

Salma T. Chand, Executive Director
School Ethics Commission