

Before the School Ethics Commission
Docket No.: C52-20
Probable Cause Notice

Alfonso Mastrofilipo,
Complainant

v.

Sharon Salvacion,
Lodi Board of Education, Bergen County,
Respondent

I. Procedural History

This matter arises from a Complaint that was filed on August 31, 2020, by Alfonso Mastrofilipo (Complainant), a former member of the Lodi Board of Education (Board), alleging that Sharon Salvacion (Respondent), a current member of the Board, violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* By correspondence dated September 1, 2020, Complainant was notified that the Complaint was deficient, and required amendment before the School Ethics Commission (Commission) could accept his filing. On October 4, 2020, 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 avers that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c) in Counts 1–5.

On October 6, 2020, the Complaint was served on Respondent, via electronic mail, notifying her that charges were filed against her with the Commission, and advising that she had twenty (20) days to file a responsive pleading.¹ On November 19, 2020, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and on December 25, 2020, Complainant filed a response to the Motion to Dismiss.

At its meeting on February 23, 2021, and after reviewing the parties' submissions, the Commission adopted a decision denying the Motion to Dismiss in its entirety, and directing Respondent to file an Answer to Complaint (Answer) to the allegations in the Complaint. On March 15, 2021, Respondent filed an Answer as directed.

Thereafter, the parties were notified by correspondence dated April 19, 2021, that this matter would be placed on the Commission's agenda for its meeting on April 27, 2021, in order to make a determination regarding probable cause. At its meeting on April 27, 2021, the Commission considered the filings in this matter and, at its meeting on May 25, 2021, the Commission voted to find that probable cause did not exist for the alleged violations of *N.J.S.A.*

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

18A:12-24(b) and/or *N.J.S.A.* 18A:12-24(c) in Counts 1-5 and, therefore, to dismiss the above-captioned matter.

II. Summary of the Pleadings

A. *The Complaint*

By way of background, and specifically incorporated into each Count of his Complaint, Complainant states that Respondent is employed by the Borough of Lodi (Borough) in the Zoning Department, and has a child who is employed in the Lodi School District (District) as a physical education teacher. The District also employs the brother of the Mayor of Lodi as a Supervisor of Building and Grounds, and also employs the brother of one of the Borough's Councilman as an account clerk (and this position is part of the secretarial bargaining unit). According to Complainant, the Mayor and the Borough Councilman "represents and [v]otes on all actions taken by the Lodi Borough[,] including all decisions on employment, salaries, benefits, and promotions."

In Count 1, Complainant states that, on June 19, 2020, the Board was given a list of four (4) Memorandum of Agreements (MOAs) that had not been approved by the respective Board committee(s). On June 24, 2020, the Board was provided with a list detailing which trustee(s) could not vote on each MOA because of a conflict(s) of interest. At the Board's meeting, which was also on June 24, 2020, a motion was made regarding the four (4) MOAs. Complainant "immediately asked for a clarification of who was conflicted, and for which MOAs," and "pointed out that he believed [Respondent] was also conflicted on two of the four MOAs." Board counsel indicated, "they did a thorough search and did not see any conflict" for Respondent. Complainant then expressed his belief that Respondent had a conflict because she was employed by the Borough, and one of the MOAs pertained to the District's Supervisor of Buildings and Grounds (and his brother is the Mayor of Lodi, and the Mayor of Lodi "represents and [v]otes on all actions" taken by the Borough, including all decisions on employment (including Respondent's). In explaining why he felt Respondent was conflicted, Complainant cited – and later provided Respondent with a copy of – *Advisory Opinion A19-13* (A19-13), and also referenced a prior Commission case which made clear that reliance on Board counsel's advice does not mean a school official cannot be found in violation of the Act. Complainant "also made it clear he would proceed with filing" an ethics complaint against Respondent "if she moved forward with voting instead of recusing herself." At a special meeting on July 1, 2020, Respondent voted in the affirmative for "the MOA in question without hesitation," and, therefore, Complainant argues she violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c). Complainant also notes that Respondent's vote "**WAS REQUIRED**" for the motion approving the MOA to pass.

In Count 2, Complainant asserts that because Respondent voted in the affirmative for an MOA for the Account Clerks at the Board's special meeting on July 1, 2020, Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c). According to Complainant, a Borough Councilman's brother is in the District's secretarial bargaining unit, and the secretarial bargaining unit generally receives the same increase as the account clerks. In addition, as a Borough Councilman, he "represents and [v]otes on all actions" taken by the Borough, including

all decisions on employment (including Respondent's). Complainant again notes that Respondent's vote "**WAS REQUIRED**" for the motion approving the MOA to pass.

In Count 3, Complainant argues that because Respondent voted to approve a new contract for the District's "4 month employed Business Administrator/Board Secretary [(BA/BS)] with a 4.6% [r]aise" at the Board's special meeting on July 1, 2020, and because this position is the direct "Supervisor of the Account Clerks and Supervisor of Buildings and Grounds" in the District, Respondent violated *N.J.S.A. 18A:12-24(b)* and *N.J.S.A. 18A:12-24(c)*. According to Complainant, if Respondent "was conflicted and should have recused herself from voting on the ... Accounts Clerk and Supervisor of Grounds and Maintenance [b]argaining [u]nits," then it is only reasonable to agree she should have recused herself from [v]oting, [d]iscussing or [a]cting on their Supervisor's [c]ontract."

In Count 4, Complainant alleges that because Respondent voted to approve the "Secretarial Employment Contract" on August 4, 2020, and a Borough Councilman's brother is part of this bargaining unit, Respondent violated *N.J.S.A. 18A:12-24(b)* and *N.J.S.A. 18A:12-24(c)*. According to Complainant, a Borough Councilman "represents and [v]otes on all actions" taken by the Borough, including all decisions on employment (including Respondent's). Once again, Complainant maintains that Respondent's vote "**WAS REQUIRED**" for this action to pass.

In Count 5, Complainant states that, on August 26, 2020, Respondent had to re-vote on "all referenced MOAs except the [BA/BS's] Personnel Contract, due to [Complainant's] objection" and a concern/question about the number of votes needed for the previous motions to carry. At this meeting, Respondent again voted yes to approve each MOA and, therefore, Complainant argues Respondent again violated *N.J.S.A. 18A:12-24(b)* and *N.J.S.A. 18A:12-24(c)*.

B. *Answer to Complaint*

In her Answer, Respondent states that her "potential conflicts of interest were first reviewed" by the Board's attorney after she joined the Board in January 2020, and after she (Respondent) completed a Conflict of Interest Questionnaire. Based on her (Respondent's) responses to the Conflict of Interest Questionnaire, Respondent was advised on her conflicts, and despite disclosing her employment in the "Zoning Department of the Borough of Lodi and [her] participation in a collective bargaining unit there, [she] was not advised that [she] had any conflicts at that time pertaining to [her] employment in terms of negotiations or personnel issues." Respondent also submits that the Mayor is not involved in the terms and conditions of her employment; her employment contract is negotiated between a shop steward and the Borough Manager every two to three years; her immediate supervisor is Nick Melfi (the Construction Official); and her "ultimate boss" is Vincent Caruso (Borough Manager), and he "makes the decision on [the] terms and conditions of [her] employment including raises." Respondent denies that she has a personal relationship with the Mayor and/or any Borough Councilperson.

With the above in mind, and regarding the allegations in Count 1, Respondent admits that at the June 24, 2020, Board meeting, the Board was presented with labor contracts for employees

of the Board who were not members of the LEA (MOAs), but the Board did *not* take any action regarding the MOAs because the resolutions to approve same were *not* seconded by any member of the Board); the subject MOAs were negotiated by the Board's negotiation committee, but Respondent denies she is a member of same; Complainant's statements at the June 24, 2020, Board meeting were "the first time" that the Board considered potential conflicts for the MOAs; and Respondent denies she has an actual or perceived conflict with regard to voting on the subject MOAs. According to Respondent, before the MOAs were presented to the Board, the Board asked its attorney to "review the various Board trustees' potential conflicts of interest and to advise of the Board members, if any, who would have" conflicts of interest. Based on the information she disclosed on her Conflict of Interest Questionnaire, Respondent "was not identified by the Board attorney as having an apparent conflict of interest to preclude [her] from voting upon the MOA[s] negotiated for the Technical Support Specialist; Director of Technology; Supervisor of Buildings and Grounds; and[/or] Accounts Clerks Association." In addition, no "apparent conflict" was identified for Respondent's participation in the Secretarial Association MOA based on her employment.

Respondent admits that Complainant provided her with a copy of A19-13 on June 26, 2020, but notes that, in contrast to A19-13, none of the employees covered by the MOAs presented to the Board are members of the Lodi Borough Council, and bargaining for the terms and conditions of her (Respondent's) employment is not done with the Mayor, but rather "is done with the Borough Manager who then presents his recommendations to the [Borough Council] for a vote of approval."

Based on Board counsel's advice that she did not have a conflict of interest, at the special meeting on July 1, 2020, Respondent voted "... to pass the MOA for the Accounts Clerks" and to "pass a renewal of the Business Administrator's contract." Respondent notes that neither the MOA for the Supervisor of Building and Grounds, the Technology Support Specialist MOA, nor the Technology Coordinator MOA passed on July 1, 2020.

In short, Respondent denies that her votes on July 1, 2020, violated *N.J.S.A.* 18A:12-24(b) or *N.J.S.A.* 18A:12-24(c); denies that her employment is a conflict of interest "as advised by the Board's attorney"; Complainant did not provide any facts that Respondent or anyone else received an "unwarranted privilege, advantage, or employment" because she voted on the MOAs; Complainant has not provided any facts that, by voting on the subject MOAs, Respondent has "a direct or indirect financial involvement that may reasonably be perceived to impair [her] objectivity or independent judgment"; and Complainant has not provided any facts to demonstrate that Respondent received a benefit for herself by voting on the subject MOAs.

Regarding the allegations in Count 2, Respondent denies that her vote on the subject MOAs on July 1, 2020, violated *N.J.S.A.* 18A:12-24(b) or *N.J.S.A.* 18A:12-24(c); denies that her employment is a conflict of interest "as advised by the Board's attorney"; reaffirms that Complainant did not provide any facts to substantiate that Respondent or anyone else received an "unwarranted privilege, advantage, or employment" due to her vote on the MOAs; Complainant has not provided any facts to substantiate that Respondent, by voting on the subject MOAs, has "a direct or indirect financial involvement that may reasonably be perceived to impair [her] objectivity or independent judgment"; and Complainant has not provided any facts to substantiate that, by voting on the MOAs, Respondent obtained a benefit for herself.

As for the allegations in Count 3, Respondent “repeats and reasserts her responses” as set forth above, and further denies that the Business Administrator’s contract “was not negotiated with the Board’s Negotiations Committee.” Respondent maintains that she “has no present recollection of the terms and conditions of the Business Administrator’s MOA” and, therefore, denies the allegations and leaves Complainant to his proofs.

Regarding the allegations in both Count 4 and Count 5, Respondent “repeats and reasserts” her arguments as set forth above, and notes that at the Board’s August 4, 2020, meeting, she voted in favor of the MOA for the Secretarial Association, and the vote was “recast on August 26, 2020... .” Despite Complainant’s argument, Respondent submits that the only MOA re-voted at the August 26, 2020, meeting “to obtain a majority vote of the full membership instead of a majority vote of attending members” was the MOA with the Secretarial Association. The MOAs for the Director of Technology, and the Supervisor of Building and Grounds were also approved at the August 26, 2020, Board meeting. Respondent denies that her votes on the subject MOAs, on both August 4, 2020, and August 26, 2020, violated *N.J.S.A. 18A:12-24(b)* and/or *N.J.S.A. 18A:12-24(c)*; denies that her employment is a conflict “as advised by the Board’s attorney”; notes that Complainant has not provided any facts to substantiate that she or anyone else received an unwarranted privilege, advantage or employment due to her votes; argues that Complainant has not provided any facts to substantiate that she, by voting on the subject MOAs, has “a direct or indirect financial involvement that may reasonably be perceived to impair [her] objectivity or independent judgment”; and contends that Complainant has not provided any facts to substantiate that she, by voting on the MOAs, obtained some benefit for herself.

Finally, Respondent asserts six “AFFIRMATIVE DEFENSES,” namely: “[t]he Complaint fails to state a claim upon which relief may be granted”; Respondent’s actions ... “even if true, do not rise to the level of a violation of *N.J.S.A. 18A:12-24(b)* or *N.J.S.A. 18A:12-24(c)* and were not unethical or unlawful in any other way”; Respondent always “sought and followed the advice of Board counsel ...”; Board counsel advised Respondent she “did not have a conflict of interest due to her employment and that she could vote on the four (4) MOAs at issue, therefore, also the Business Administrator’s Contract”; “[a]ny actions taken by Respondent were not taken for illegal, unethical or improper reasons”; and “[a]ny actions taken by Respondent did not result in anyone including the Respondent obtaining an unwarranted privilege, advantage or employment or some benefit to herself.” Therefore, Respondent “respectfully requests” that the Commissions dismiss the Complaint with prejudice.

III. Analysis

This matter is before the Commission for a determination of probable cause pursuant to *N.J.A.C. 6A:28-10.7*, processing of Complaints alleging solely prohibited acts. A finding of probable cause is not an adjudication on the merits but, rather, an initial review whereupon the Commission makes a preliminary determination as to whether the matter should proceed to an adjudication on the merits, or whether further review is not warranted.

In order to determine whether probable cause exists, the Commission must determine whether there is a reasonable ground of suspicion supported by facts and circumstances strong

enough in themselves to warrant a reasonable person to believe that the Act, and *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c) in particular, was violated. *N.J.A.C.* 6A:28-10.7.

Alleged Prohibited Act Violations

In this case, Complainant alleges that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c) in Counts 1-5. These provisions state:

- b. No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others;
- c. No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family;

In order to credit the alleged violations of *N.J.S.A.* **18A:12-24(b)** in Counts 1-5, the Commission must find evidence that Respondent used or attempted to use her official position to secure an unwarranted privilege, advantage or employment for herself, members of her immediate family, or “others.”

Additionally, to credit the alleged violations of *N.J.S.A.* **18A:12-24(c)** in each Count of the Complaint, the Commission must find evidence that Respondent acted in her official capacity in a matter where she, a member of her immediate family, or a business organization in which she has an interest, had a direct or indirect financial involvement that might reasonably be expected to impair her objectivity, or in a matter where she or a member of her immediate family had a personal involvement that created some benefit to her or to a member of her immediate family.

Count 1

Complainant argues that Respondent violated *N.J.S.A.* **18A:12-24(b)** and *N.J.S.A.* **18A:12-24(c)** because she is employed by the Borough; she voted to approve an MOA for the District’s Supervisor of Buildings and Grounds (at a special meeting on July 1, 2020); the brother of the District’s Supervisor of Buildings and Grounds is the Mayor of Lodi; and the Mayor “represents and [v]otes on all actions” taken by the Borough, including all decisions on employment (including Respondent’s). According to Complainant, Respondent’s affirmative vote was necessary for the MOA to be approved.

Respondent denies that her votes on July 1, 2020, violated *N.J.S.A.* 18A:12-24(b) or *N.J.S.A.* 18A:12-24(c); denies that her employment is a conflict of interest, “as advised by the Board’s attorney”; Complainant did not provide any facts that Respondent or anyone else received an “unwarranted privilege, advantage, or employment” because she voted on the

MOAs; Complainant has not provided any facts that, by voting on the subject MOAs, Respondent has “a direct or indirect financial involvement that may reasonably be perceived to impair [her] objectivity or independent judgment”; and Complainant has not provided any facts to demonstrate that Respondent received a benefit for herself by voting on the subject MOAs.

After considering the totality of the facts and circumstances set forth in the parties’ submissions, the Commission finds that Complainant has not articulated a reasonable ground of suspicion supported by facts and circumstances strong enough in themselves to warrant a reasonable person to believe that *N.J.S.A. 18A:12-24(b)* and/or *N.J.S.A. 18A:12-24(c)* was violated as argued in Count 1. Because Respondent was not involved in the negotiations of the MOA; her vote was not directly related to her employer, her Borough employment (or to her Borough supervisor and/or a Borough colleague/co-worker), or to a relative; and Respondent voted to approve the MOA only after all terms and conditions of the MOA (including monetary considerations) were finalized, the Commission finds that there are insufficient facts to support findings of probable cause.

Accordingly, and pursuant to *N.J.A.C. 6A:28-10.7(d)*, the Commission dismisses the alleged violations of *N.J.S.A. 18A:12-24(b)* and *N.J.S.A. 18A:12-24(c)* in Count 1.

Count 2

Complainant contends given that Respondent is employed by the Borough; she voted to approve an MOA for the account clerks (at a special meeting on July 1, 2020); the secretarial bargaining unit generally receives the same increase as the account clerks; a Borough Councilman’s brother is a member of the District’s secretarial bargaining unit; and the Borough Councilman “represents and [v]otes on all actions” taken by the Borough, including all decisions on employment (including Respondent’s), Respondent violated ***N.J.S.A. 18A:12-24(b)*** and ***N.J.S.A. 18A:12-24(c)***. Complainant submits without Respondent’s affirmative vote the MOA would not have been approved.

Respondent denies that her vote on the subject MOAs on July 1, 2020, violated *N.J.S.A. 18A:12-24(b)* or *N.J.S.A. 18A:12-24(c)*; denies that her employment is a conflict of interest, “as advised by the Board’s attorney”; reaffirms that Complainant did not provide any facts to substantiate that Respondent or anyone else received an “unwarranted privilege, advantage, or employment” due to her vote on the MOAs; Complainant has not provided any facts to substantiate that Respondent, by voting on the subject MOAs, has “a direct or indirect financial involvement that may reasonably be perceived to impair [her] objectivity or independent judgment”; and Complainant has not provided any facts to substantiate that, by voting on the MOAs, Respondent obtained a benefit for herself.

Based on its analysis of the totality of the facts and circumstances described in the pleadings, the Commission finds that Complainant has not articulated a reasonable ground of suspicion supported by facts and circumstances strong enough in themselves to warrant a reasonable person to believe that *N.J.S.A. 18A:12-24(b)* and/or *N.J.S.A. 18A:12-24(c)* was violated as contended in Count 2. In light of the fact that Respondent did not negotiate the terms of the MOA; her vote tertiarily (at best) related to her employer and her Borough employment (including a supervisor); her vote did not involve a relative (or a relative’s District or Borough

employment); and Respondent voted to approve the MOA only after all terms and conditions of the MOA (including finances) were settled by other members of the Board, the Commission determines that there are insufficient facts to support findings of probable cause.

Therefore, and pursuant to *N.J.A.C.* 6A:28-10.7(d), the Commission dismisses the alleged violation of *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c) in Count 2.

Count 3

Complainant alleges that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c) because she is employed by the Borough; she voted to approve a new contract for the District's BA/BS (at a special meeting on July 1, 2020); the BA/BS directly supervises the District's Supervisor of Buildings and Grounds and the account clerks; Respondent has a conflict of interest which precludes her from being able to vote on the MOA for the District's Supervisor of Buildings and Grounds and the MOA for the account clerks; and Respondent also has a conflict of interest with regard to the supervisor of both positions (i.e., the BA/BS).

Respondent counters that the subject MOAs were negotiated by the Board's negotiation committee, and she was not a member thereof, and denies that she has a conflict of interest which precludes her from voting on the contract for the BA/BS, the Supervisor of Buildings and Grounds, and/or the account clerks.

Following its review of the totality of the facts and circumstances enumerated in the parties' filings, the Commission finds that Complainant has not articulated a reasonable ground of suspicion supported by facts and circumstances strong enough in themselves to warrant a reasonable person to believe that *N.J.S.A.* 18A:12-24(b) and/or *N.J.S.A.* 18A:12-24(c) was violated as alleged in Count 3. Since Respondent was not a member of the negotiations committee responsible for negotiating the MOA; the basis for her alleged conflict was incorrectly predicated on Respondent's conflict for other staff members (those in Count 1 and Count 2); her vote did not pertain to or implicate her and/or a relative's employment; and Respondent voted to approve the MOA only after all terms and conditions of the MOA (including monetary considerations) were resolved by the negotiations committee, the Commission finds that there are insufficient facts to support findings of probable cause.

Accordingly, and pursuant to *N.J.A.C.* 6A:28-10.7(d), the Commission dismisses the alleged violations of *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c) in Count 3.

Count 4

Given that Respondent is employed by the Borough; she voted to approve the Secretarial Employment Contract (on August 4, 2020); a Borough Councilman's brother is a member of this bargaining unit; and the Borough Councilman "represents and [v]otes on all actions" taken by the Borough, including all decisions on employment (including Respondent's), Complainant claims that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c). Furthermore, Complainant notes, absent Respondent's affirmative vote, the contract would not have been approved.

Respondent denies that she has a conflict of interest which precludes her from voting on the secretarial association's contract; Respondent denies that her vote violated *N.J.S.A.* 18A:12-24(b) and/or *N.J.S.A.* 18A:12-24(c); denies that her employment is a conflict, "as advised by the Board's attorney"; notes that Complainant has not provided any facts to substantiate that she or anyone else received an unwarranted privilege, advantage or employment due to her vote; argues that Complainant has not provided any facts to substantiate that she, by voting on the subject MOA, has "a direct or indirect financial involvement that may reasonably be perceived to impair [her] objectivity or independent judgment"; and contends that Complainant has not provided any facts to substantiate that she, by voting on the MOA, obtained some benefit for herself.

In its assessment of the totality of the facts and circumstances detailed in the parties' papers, the Commission finds that Complainant has not articulated a reasonable ground of suspicion supported by facts and circumstances strong enough in themselves to warrant a reasonable person to believe that *N.J.S.A.* 18A:12-24(b) and/or *N.J.S.A.* 18A:12-24(c) was violated as claimed in Count 4. Because Respondent's vote was only peripherally related to her employer and Borough employment (and did concern her Borough supervisor or any other individual with direct authority over her employment); did not involve her relative's employment (either in the District or with the Borough); and Respondent voted to approve the MOA only after all terms and conditions of the MOA (including finances) were determined, the Commission submits that there are insufficient facts to support findings of probable cause.

Therefore, and pursuant to *N.J.A.C.* 6A:28-10.7(d), the Commission dismisses the alleged violation of *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c) in Count 4.

Count 5

Complainant asserts that Respondent *again* violated ***N.J.S.A.* 18A:12-24(b)** and ***N.J.S.A.* 18A:12-24(c)** because she is employed by the Borough; she *again* voted to approve (1) an MOA for the District's Supervisor of Buildings and Grounds, (2) an MOA for the account clerks, and (3) the Secretarial Employment Contract at a meeting on August 26, 2020; the brother of the District's Supervisor of Buildings and Grounds is the Mayor of Lodi; a Borough Councilman's brother is a member of the District's secretarial bargaining unit; and the Mayor and the Borough Councilman "represent[] and [v]ote[] on all actions" taken by the Borough, including all decisions on employment (including Respondent's).

Respondent denies that her votes on August 26, 2020, violated *N.J.S.A.* 18A:12-24(b) and/or *N.J.S.A.* 18A:12-24(c); denies that her employment is a conflict, "as advised by the Board's attorney"; notes that Complainant has not provided any facts to substantiate that she or anyone else received an unwarranted privilege, advantage or employment due to her votes; argues that Complainant has not provided any facts to substantiate that she, by voting on the subject MOAs, has "a direct or indirect financial involvement that may reasonably be perceived to impair [her] objectivity or independent judgment"; and contends that Complainant has not provided any facts to substantiate that she, by voting on the MOAs, obtained some benefit for herself.

After considering the totality of the facts and circumstances set forth in the parties' submissions, the Commission finds that Complainant has not articulated a reasonable ground of

suspicion supported by facts and circumstances strong enough in themselves to warrant a reasonable person to believe that *N.J.S.A.* 18A:12-24(b) and/or *N.J.S.A.* 18A:12-24(c) was violated as asserted in Count 5. In light of the fact that Respondent was not involved in the negotiations of the MOA; her vote was not directly related to her employer, her Borough employment (or to her Borough supervisor and/or a Borough colleague/co-worker), or to a relative; and Respondent voted to approve the MOA only after all terms and conditions of the MOA (including monetary considerations) were finalized, the Commission finds that there are insufficient facts to support findings of probable cause.

Accordingly, and pursuant to *N.J.A.C.* 6A:28-10.7(d), the Commission dismisses the alleged violations of *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c) in Count 5.

IV. Notice

Pursuant to *N.J.S.A.* 18A:12-29(b), the Commission hereby notifies Complainant and Respondent that it does not find probable cause to credit the alleged violations of *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c) in Counts 1-5 and, therefore, dismisses this matter.

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: May 25, 2021

***Resolution Adopting Decision
in Connection with C52-20***

Whereas, at its meeting on April 27, 2021, the School Ethics Commission (Commission) considered the Complaint and Answer to Complaint (Answer) submitted by the parties in connection with this matter; and

Whereas, at its meeting on April 27, 2021, the Commission discussed finding that probable cause did not exist for the alleged violations of *N.J.S.A.* 18A:12-24(b) and/or *N.J.S.A.* 18A:12-24(c) in Counts 1-5 and, therefore, dismissing this matter; and

Whereas, at its meeting on May 25, 2021, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on April 27, 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 May 25, 2021.

Kathryn A. Whalen, Director
School Ethics Commission