

Before the School Ethics Commission
Docket No.: C69-22
Decision on Motion to Dismiss

Baraah Hammad,
Complainant

v.

Dana Beltran,
Clifton Board of Education, Passaic County,
Respondent

I. Procedural History

The above-captioned matter arises from a Complaint that was filed on June 22, 2022, by Baraah Hammad (Complainant), alleging that Dana Beltran (Respondent), a member of the Clifton Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.* By correspondence dated June 23, 2022, Complainant was notified that the Complaint was deficient, and required amendment before the School Ethics Commission (Commission) could accept her filing. On June 23, 2022, 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*. More specifically, the Complaint avers that Respondent violated *N.J.S.A. 18A:12-24(a)*, *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, *N.J.S.A. 18A:12-24(f)*, *N.J.S.A. 18A:12-24(g)*, *N.J.S.A. 18A:12-24(i)*, and *N.J.S.A. 18A:12-24(j)*, as well as *N.J.S.A. 18A:12-24.1(a)*, *N.J.S.A. 18A:12-24.1(b)*, *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(f)*, *N.J.S.A. 18A:12-24.1(g)*, *N.J.S.A. 18A:12-24.1(i)*, and *N.J.S.A. 18A:12-24.1(j)* of the Code of Ethics for School Board Members (Code) in Count 1, and violated *N.J.S.A. 18A:12-24.1(a)* and *N.J.S.A. 18A:12-24.1(i)* of the Code in Count 2.

On June 24, 2022, the Complaint was served on Respondent via electronic mail, notifying her that ethics charges had been filed against her with the Commission, and advising that she had twenty (20) days to file a responsive pleading.¹ On August 2, 2022, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and also alleged that the Complaint is frivolous. On September 21, 2022, Complainant filed a response to the Motion to Dismiss and allegation of frivolous filing.

The parties were notified by correspondence dated November 14, 2022, that the above-captioned matter would be discussed by the Commission at its meeting on November 22, 2022,

¹ In order to conduct business during the Coronavirus (COVID-19) pandemic, the Commission implemented an electronic filing system, which remains a permissible method by which the Commission and parties can effectuate service of process. Consequently, service of process was effectuated by the Commission through electronic transmission only.

in order to make a determination regarding the Motion to Dismiss and allegation of frivolous filing. Following its discussion on November 22, 2022, the Commission adopted a decision at its meeting on December 20, 2022, finding that the allegations in Count 1 were untimely filed, and granting the Motion to Dismiss as to the contentions in Count 2 because Complainant failed to plead sufficient credible facts to support a finding that Respondent violated *N.J.S.A. 18A:12-24.1(a)* and/or *N.J.S.A. 18A:12-24.1(i)*. The Commission also adopted a decision finding the Complaint not frivolous, and denying Respondent's request for sanctions.

II. Summary of the Pleadings

A. *The Complaint*

Before more fully detailing the nature of Respondent's alleged violations of the Act, Complainant concedes that although "some of the complaints may be past the 180-day statute of limitations," the information "sets the backdrop of behaviors, actions, and questionable unethical situations that keep occurring" regarding Respondent.

In Count 1, Complainant states that on December 14, 2021, Respondent engaged in an exchange on social media with members of the public, and disclosed information that "was discussed in executive session on December 9, 2021." According to Complainant, Respondent shared the question she asked of Board counsel, as well as the response she received in executive session. Moreover, Respondent "informs her friends and allies ... that 'The Board' is afraid to discuss legal information in public and also mentions and insinuates in the Facebook post that she will force the discussion publicly." Furthermore, Complainant contends Respondent "took it upon herself to play outside the rules of executive session. Disseminating this executive session information for her personal and political gain in doing so, furthers her interest with her friends and allies for when she runs for the Clifton City Council in November of 2022, as she has already declared her council candidacy on social media and took part in open forum." Complainant further contends Respondent "is in direct violation of sharing executive session discussion with the public on social media"; "[i]n the interest of her constituents and friends, [Respondent] has made a promise of her next steps to discuss executive session discussion in public session"; and "has no regard for the privacy of executive session protocols, as she has had a personal interest in only furthering her personal gain." As such, and because "[h]er next political steps have blinded her judgment," Complainant alleges Respondent has violated *N.J.S.A. 18A:12-24(a)*, *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, *N.J.S.A. 18A:12-24(f)*, *N.J.S.A. 18A:12-24(g)*, *N.J.S.A. 18A:12-24(i)*, *N.J.S.A. 18A:12-24(j)*, *N.J.S.A. 18A:12-24.1(a)*, and *N.J.S.A. 18A:12-24.1(c)*.

Complainant further alleges Respondent violated *N.J.S.A. 18A:12-24.1(b)* because her "actions have put the welfare of the ... [Clifton School District (District)] in jeopardy, and this misconduct supersedes that day-to-day operations of the administration"; *N.J.S.A. 18A:12-24.1(e)* because she has "compromised the [Board] by taking private action in discussing executive session legal material with the public. The executive session agenda will show that the [Board] spoke to legal action being taken and the cost of the deductible by the insurance company."; *N.J.S.A. 18A:12-24.1(f)* because she "has absolutely surrendered her judgement as a board of education [(sic)] to her friends in discussing legal agenda items that were being taken

and released them to the public”; *N.J.S.A.* 18A:12-24.1(g) because she has acted “the complete opposite” of this provision of the Code; *N.J.S.A.* 18A:12-24.1(i) because “[h]er actions have put the welfare of the ... [D]istrict in jeopardy, and this misconduct supersedes the day-to-day operations of the administration”; and *N.J.S.A.* 18A:12-24.1(j) because instead of “taking her concerns [to] the [B]oard President and the Superintendent, she decided to take action into her own hands and disseminate executive discussion to the public, that also happens to be her friends.”

In Count 2, Complainant contends that, “while sitting on the dais,” Respondent brought alcohol onto the Board dais, and “illegally” used her personal laptop to conduct personal business. Complainant submits that Respondent’s actions in this regard puts the Board “in a position to be held accountable and responsible” for her actions. According to Complainant, at “the beginning of [the] May 5, 2022,” Board meeting, Board member Bassford gave Respondent a black plastic bag and stated (while winking), “My oldest child told me to give this to you.” According to Complainant, the plastic bag contained alcohol “for Cinco de Mayo,” and Respondent’s acceptance on school property violated Board policy. If this was a “gift,” Complainant submits it should have been given to Respondent in the parking lot. Complainant further states that on May 19, 2022, Respondent admitted that “Ms. Bassford gave the alcohol to her at the beginning of the [B]oard meeting,” and Ms. Bassford admitted giving her the bag (although she denied, on June 2, 2022, knowing the bag contained alcohol).

Furthermore, Complainant asserts that Respondent “repeatedly brought her personal ‘non-issued [D]istrict’ laptop to conduct personal business on the dais” in violation of the Open Public Meetings Act (OPMA). Moreover, Respondent “has used [D]istrict time during [B]oard meetings to carry out her personal business.” Based on her conduct (receiving the bag of alcohol and using her personal laptop), Complainant asserts Respondent has violated *N.J.S.A.* 18A:12-24.1(a) because “she has broken ... [D]istrict policy, [B]oard ... ethical boundaries[,] and violated legal processes for her own personal gain,” and also violated *N.J.S.A.* 18A:12-24.1(i) because Respondent “has obviously not supported or protected school personnel in proper performance of their school duties by putting the [D]istrict in jeopardy by bringing in alcohol to the [Board] meeting, [and] misus[ing] her personal laptop.”

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

Following receipt of the Complaint, Respondent filed a Motion to Dismiss and allegation of frivolous filing, and argues that the Complaint is untimely, in part. Respondent initially notes that this Complaint is “nearly identical” to that filed by Complainant’s spouse and Board member, Feras Awwad (in the matter docketed by the Commission as C11-22), against Respondent; however, that matter was administratively dismissed because Mr. Awwad withdrew his Complaint after being advised that the Board’s “insurance policy prohibited coverage for [e]thics [c]omplaints filed by one Board member against another Board member.” Thereafter, Respondent argues that Mr. Awwad “re-filed the within Complaint against [Respondent], but fraudulently used his [spouse’s] name as the Complainant.” Moreover, “Complainant has no knowledge of the underlying frivolous allegations contained in the Complaint and was not even aware that her name was used in the subject filing.” However, after discussing the matter with her spouse, Complainant “recalled” drafting and filing the Complaint. Respondent further notes

that “in violation of [Respondent’s] privacy, Mr. Awwad took pictures of [Respondent] without her knowledge or consent and used those pictures without her knowledge or consent.” Respondent maintains the pictures “could not have been taken by anyone other than Mr. Awwad as they were taken from the vantage point of behind and/or directly next to [Respondent] during [Board] meetings. This vantage point is not available to the public in person, over Zoom video conference, on You-tube, or otherwise, and is further evidence that” Mr. Awwad is the actual Complainant - not his spouse.

As for the allegations in Count 1 that are alleged to have occurred on December 14, 2021, Respondent contends these allegations “are out of time and must be dismissed in their entirety.” According to Respondent, “The time in which to file a [Complaint] regarding anything that occurred on December 14, 2021[,] expired on June 12, 2022,” and Complainant filed this matter on June 22, 2022. Furthermore, Respondent maintains that although she was “considering running for City Council,” she is not a confirmed candidate (yet), and Complainant’s allegations that “Respondent is somehow ‘blinded’ in judgment by her political aspirations for City Council” is “without merit and frivolous”; moreover, it “should be noted that it is permitted to run for City Council while a member of the [Board].”

Regarding the “gifted alcohol” in Count 2, Respondent argues after Ms. Bassford gave her the gift, Mr. Awwad inquired regarding same, and Respondent stated the “gift was ‘jello-shots’ from [her] friend.” Mr. Awwad then asked if he could have one. However, Respondent maintains that she “was given a sealed bag as a present and immediately placed the gift in her bag,” and denies that any alcohol was consumed during the Board meeting. Thereafter, at the May 19, 2022, Board meeting, Mr. Awwad “called for new business and asked for the policy on the non-issue of adults accepting alcohol as presents from other adults.” Respondent then shared “the situation of being gifted alcohol in a sealed bag, which she did not consume.” Consequently, at a Board meeting on June 23, 2022, the Board discussed the policy “prohibiting the consumption of alcohol on school grounds,” and Board counsel clarified, “she has never seen this policy enforced when the gift of alcohol is concerned.” A discussion ensued, and the Board agreed “this type of behavior is not what is meant to be policed by the subject policy.” Therefore, Respondent argues the matter was “discussed and resolved at the June 23, 2022[, B]oard meeting and as such, any allegations involving this matter are moot.”

Regarding the allegations in Count 2 of Respondent’s use of personal laptop, Respondent again notes that Mr. Awwad “has taken pictures of Respondent and her personal belongings without her knowledge or consent.” Moreover, Mr. Awwad “used his personal cell phone during the [Board] meetings to take pictures of Respondent, for his personal gain in filing the underlying frivolous and fraudulent Complaint using his wife’s name.” Furthermore, Respondent asserts Complainant “fails to point to any policy or rule prohibiting the use of a personal laptop” at a Board meeting. Respondent maintains she has “never used her District issued computer to conduct personal business, nor is same even alleged in the Complaint.” Respondent further maintains “there has never been a prohibition of use of personal devices at” a Board meeting.

Respondent argues that the “facts alleged in the Complaint do not meet the burden of proof to establish a violation of the” Code. According to Respondent, despite citing various provisions of the Act, Complainant “is unable to connect any alleged activity of Respondent to

any of the statutes cited, and instead makes blanket allegations entirely unrelated to the statutes cited”; therefore, the Complaint should be dismissed. Respondent also notes Complainant repeatedly claims that “Respondent’s political aspirations have blinded her judgment in her run for City Council,” but Respondent maintains she is not “a confirmed candidate.” Without any evidence to support the allegations that she violated *N.J.S.A. 18A:12-24(a)*, *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, *N.J.S.A. 18A:12-24(f)*, *N.J.S.A. 18A:12-24(g)*, *N.J.S.A. 18A:12-24(i)*, *N.J.S.A. 18A:12-24(j)*, *N.J.S.A. 18A:12-24.1(a)*, *N.J.S.A. 18A:12-24.1(b)*, *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(f)*, *N.J.S.A. 18A:12-24.1(g)*, *N.J.S.A. 18A:12-24.1(i)*, and/or *N.J.S.A. 18A:12-24.1(j)*, the Complaint must be dismissed.

Finally, Respondent maintains that, based on the arguments set forth in her Motion to Dismiss (and the Certifications offered in support thereof), the Complaint is frivolous as “it is clear that the Complaint in this matter was filed solely for the purpose of harassment, and contrary to the best interest of the [Board].” Respondent further maintains Complainant “knew or should have known that the matter was without any reasonable basis in law or equity and could not be supported by a good faith argument.” Respondent argues the “facts set forth in the Complaint are alleged in bad faith and were filed fraudulently”; therefore, Respondent requests that sanctions be imposed on Complainant.

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

In response to the Motion to Dismiss and allegation of frivolous filing, and regarding Respondent’s “Preliminary Statement,” Complainant notes: she filed the Complaint, not her husband, and she was not under any pressure or coercion to do so; Respondent’s attorney has called Complainant “multiple times,” and “considers this to be harassment and intimidation”; Complainant’s spouse previously filed a complaint (C11-22) but “retracted it” because he did not want to cause a problem for the Board or create “financial repercussions”; Respondent did not provide any evidence that Complainant’s spouse “fraudulently” used Complainant to file a complaint; and it was not until Board member Bassford, “dared him [(Complainant’s spouse)] to have [Complainant] to file the complaints” that she decided to file the Complaint. Complainant maintains the “continuing lie by ... [R]espondent that [Complainant] had no knowledge [(about the filing of this complaint)] is unethical and irreprehensible in itself.”

According to Complainant, the certification from Respondent’s counsel is “falsified and should be accounted for penalty against the attorney.” Complainant asserts her spouse took pictures of Respondent during the Board meeting and showed them to his spouse as part of a “conversation between spouses,” after long nights of meeting or coming home from work. Complainant maintains she “kept the photos and decided to use them.” Complainant further maintains although there is “nothing wrong with other board members using their personal laptops,” Respondent “was not conducting [B]oard business during the [B]oard meeting.”

Complainant reasserts that Respondent “has declared her candidacy and her campaign for Clifton City Council, and “is using her seat” on the Board to promote her candidacy, and did not “put a disclaimer that she is not speaking on behalf of” the Board.

Complainant reaffirms that, although her spouse also filed a Complaint, his did not contain any information or allegations related to the alcohol that was gifted to Respondent (and accepted by Respondent) during the May 5, 2022, Board meeting. Complainant argues, Respondent’s testimony that her spouse asked Respondent to share her alcohol, “is hard to believe” since Complainant and her spouse are Muslim and do not drink.

D. Public Comments Offered at the Commission’s Meeting on November 22, 2022

At the Commission’s meeting on November 22, 2022, members of the public appeared by telephone and offered public comment regarding the above-captioned matter. More detailed information regarding the substance of those public comments can be found in the [minutes](#) from the Commission’s meeting on November 22, 2022.

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(s) 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 pled sufficient facts which, if true, could support a finding that Respondent violated *N.J.S.A. 18A:12-24(a)*, *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, *N.J.S.A. 18A:12-24(f)*, *N.J.S.A. 18A:12-24(g)*, *N.J.S.A. 18A:12-24(i)*, and *N.J.S.A. 18A:12-24(j)*, *N.J.S.A. 18A:12-24.1(a)*, *N.J.S.A. 18A:12-24.1(b)*, *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(f)*, *N.J.S.A. 18A:12-24.1(g)*, *N.J.S.A. 18A:12-24.1(i)*, and/or *N.J.S.A. 18A:12-24.1(j)* in Count 1, and/or *N.J.S.A. 18A:12-24.1(a)* and/or *N.J.S.A. 18A:12-24.1(i)* in Count 2. The Commission notes that, despite the offering of public comment at its meeting on November 22, 2022, the Commission’s review of this matter was limited solely to the parties’ written submissions.

B. Untimeliness

At the outset of her Complaint, Complainant admits that “some of the complaints may be past the 180-day statute of limitations,” but maintains that the information “sets the backdrop of behaviors, actions, and questionable unethical situations that keep occurring” regarding Respondent. As part of her Motion to Dismiss and allegation of frivolous filing, Respondent argues that the allegations in Count 1 are untimely and must be dismissed.

The Commission’s regulations provide a one hundred eighty (180) day limitation period for filing a complaint. More specifically, *N.J.A.C. 6A:28-6.5(a)* provides, in relevant part:

- (a) Complaints shall be filed within 180 days of notice ***of the events which form the basis of the alleged violation(s)***. A complainant shall be deemed to be notified of events which

form the basis of the alleged violation(s) *when he or she knew of such events or when such events were made public so that one using reasonable diligence would know or should have known* (emphasis added).

In this case, Complainant did not file a Complaint that was deemed compliant with the Commission's regulations (*N.J.A.C.* 6A:28-6.3) until June 23, 2022; however, she filed her first deficient Complaint on June 22, 2022. Therefore, and because Complainant's amendments relate back to the date her Complaint was first received by the Commission, the filing date in this matter is regarded as **June 22, 2022**. See *N.J.A.C.* 6A:28-6.7(b). One hundred eighty (180) days prior to June 22, 2022, is December 24, 2021.

With the above in mind, and pursuant to *N.J.A.C.* 6A:28-6.5(a), the Commission must determine when Complainant knew of the events which form the basis of her Complaint, or when such events were made public so that one using reasonable diligence would know, or should have known, of such events.

The Commission recognizes that limitation periods of this type serve to discourage dilatoriness and provide a measure of repose in the conduct of school affairs. *Kaprow v. Berkley Township Bd. of Educ.*, 131 *N.J.* 571, 587 (1993). Thus, "notice of the alleged violation" must be interpreted in a manner that anticipates the reasonable diligence of complainant(s). In addressing potential violations of the Act, the Commission must balance the public's interest in knowing of potential violations against the important policy of repose and a respondent's right to fairness. The time limitations set forth in the regulations must be enforced if the Commission is to operate in a fair and consistent manner. *Phillips v. Streckenbein et al., Edgewater Park Bd. of Educ., Burlington County*, C19-03 (June 24, 2003).

After review, the Commission finds that there is not a credible basis upon which to find that Complainant was unaware of Respondent's actions/conduct until a date(s) other than when they occurred. Although the Commission recognizes that the regulatory time period may be relaxed, in its discretion, in any case where strict adherence may be deemed inappropriate or unnecessary or may result in injustice, it finds no extraordinary circumstances in the within matter that would compel relaxation. Consequently, the claims in Count 1, which relate to conduct that allegedly occurred on or about December 14, 2021, are time barred and **dismissed**.

C. *Mootness*

In her Motion to Dismiss and allegation of frivolous filing, Respondent notes that the conduct at issue in Count 2 was already "discussed and resolved" by the Board at its meeting on June 23, 2022, and, therefore, "any allegations involving this matter are moot." Despite Respondent's argument, the Commission reiterates that, even if the Board has taken action to resolve an issue or dispute involving an individual member of the Board, that does not mean, in and of itself, that the conduct/actions at issue cannot independently form the basis for a violation(s) of the Act. Acceptance of Respondent's proposition would subvert the legislative intent and purpose of the Act. Therefore, the Commission finds that the alleged violations of the Act in Count 2 are not moot, and can be adjudicated before the Commission.

D. Jurisdiction of the Commission

In reviewing the filings 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).

With the jurisdiction of the Commission in mind, to the extent that Complainant seeks a determination from the Commission that the named Respondent's conduct or actions may have violated a Board policy, regulation, and/or bylaw; and/or Respondent's conduct or actions may have violated the OPMA, the Commission advises that such determinations fall beyond the scope, authority, and jurisdiction of the Commission. Although Complainant may be able to pursue a cause of action in the appropriate tribunal, the Commission is not the appropriate entity to adjudicate those issues. Consequently, those claims are *dismissed*.

E. Alleged Violations of the Act

In the remaining Count of the Complaint (Count 2), Complainant submits that, based on the conduct more fully detailed above, Respondent violated *N.J.S.A.* 18A:12-24.1(a) and *N.J.S.A.* 18A:12-24.1(i), and these provisions of the 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.

i. I will support and protect school personnel in proper performance of their duties.

Pursuant to *N.J.A.C.* 6A:28-6.4(a), a violation of *N.J.S.A.* 18A:12-24.1(a) and/or *N.J.S.A.* 18A:12-24.1(i) needs to be supported by certain factual evidence, more specifically:

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 Respondent failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that Respondent brought about changes through illegal or unethical procedures.

9. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(i) shall include evidence that Respondent took deliberate action which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties.

After review, the Commission finds that even if the facts as pled are proven true by sufficient credible evidence, they would not support a finding that Respondent violated *N.J.S.A.* 18A:12-24.1(a) and/or *N.J.S.A.* 18A:12-24.1(i) in Count 2. As for the stated violation of *N.J.S.A.* 18A:12-24.1(a), Complainant has not provided, although required by *N.J.A.C.* 6A:28-6.4(a)(1), a **copy of a final decision(s)** from any court of law or other administrative agency demonstrating or finding that Respondent violated any specific law(s), rule(s), or regulation(s) of the State Board of Education and/or court orders pertaining to schools, or that she brought about changes through illegal or unethical procedures, when she engaged in any of the actions/conduct set forth in Count 2. In the absence of the required final decision(s), the Commission is required to dismiss the alleged violation of *N.J.S.A.* 18A:12-24.1(a).

Regarding the purported violation of *N.J.S.A.* 18A:12-24.1(i), even if, “while sitting on the dais,” Respondent brought alcohol onto the Board dais, and “illegally” used her personal laptop to conduct personal business, there is still a complete absence of evidence that she took deliberate **action** which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties (in violation of *N.J.S.A.* 18A:12-24.1(i)). In fact, any suggestion that Respondent’s actions *could* have prospectively undermined, opposed, compromised, or harmed *unnamed* personnel is entirely speculative.

Accordingly, and for the reasons set forth above, the Commission finds that the alleged violations of *N.J.S.A.* 18A:12-24.1(a) and *N.J.S.A.* 18A:12-24.1(i) in Count 2 must be dismissed.

IV. Request for Sanctions

At its meeting on November 22, 2022, the Commission considered Respondent’s request that the Commission find the Complaint frivolous, and impose sanctions pursuant to *N.J.S.A.* 18A:12-29(e). Despite Respondent’s argument, the Commission cannot find evidence that 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, at its meeting on December 20, 2022, the Commission voted to find the Complaint not frivolous, and to deny the 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 voted to find that the allegations in Count 1 were untimely filed, and to grant the Motion to Dismiss as to the contentions in Count 2 because Complainant failed to plead sufficient credible facts to support a finding that Respondent violated *N.J.S.A.* 18A:12-24.1(a) and/or *N.J.S.A.* 18A:12-24.1(i). The Commission also voted to find that the Complaint is not frivolous, and to deny Respondent’s request for sanctions.

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 20, 2022

**Resolution Adopting Decision
in Connection with C69-22**

Whereas, at its meeting on November 22, 2022, 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 submitted in connection with the above-referenced matter; and

Whereas, at its meeting on November 22, 2022, the Commission discussed finding that the allegations in Count 1 were untimely filed, and granting the Motion to Dismiss as to the contentions in Count 2 because Complainant failed to plead sufficient credible facts to support a finding that Respondent violated *N.J.S.A.* 18A:12-24.1(a) and/or *N.J.S.A.* 18A:12-24.1(i); and

Whereas, at its meeting on November 22, 2022, the Commission discussed finding the Complaint not frivolous, and denying the request for sanctions; and

Whereas, at its meeting on December 20, 2022, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on November 22, 2022; 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 20, 2022.

Kathryn A. Whalen, Esq.
Director, School Ethics Commission