

***Before the School Ethics Commission  
OAL Docket No.: EEC-04844-21  
SEC Docket No.: C81-20  
Final Decision***

***I/M/O Brigitte Goncalves,  
East Newark Board of Education, Hudson County***

**I. Procedural History**

The above-captioned matter arises from a Complaint that was filed on December 8, 2020, by Carla Fernandes (Complainant), alleging that Brigitte Goncalves (Respondent), a member of the East Newark Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.* More specifically, the Complaint averred 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(d)*, as well as *N.J.S.A. 18A:12-24.1(f)* of the Code of Ethics for School Board Members (Code) in Counts 1-4.

At its meeting on March 23, 2021, the Commission adopted a decision finding that the alleged violations of the Act that occurred prior to June 11, 2020, were untimely filed<sup>1</sup>; granting the Motion to Dismiss as to Count 1, and as to the alleged violations of *N.J.S.A. 18A:12-24(a)* and *N.J.S.A. 18A:12-24(d)* in Count 3 and Count 4; denying the Motion to Dismiss as to the alleged violations of *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, and *N.J.S.A. 18A:12-24.1(f)* in Count 3 (but only for the actions that occurred on June 15, 2020, and June 30, 2020); and denying the Motion to Dismiss as to the alleged violations of *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, and *N.J.S.A. 18A:12-24.1(f)* in Count 4 (but only for the conduct that occurred on July 20, 2020). The Commission also directed Respondent to file an Answer to Complaint (Answer) for the remaining allegations, which she did on April 1, 2021.

Thereafter, and at its meeting on May 25, 2021, the Commission adopted a decision finding probable cause for all of the remaining allegations in the Complaint. Based on its finding of probable cause, the Commission voted to transmit the within matter to the Office of Administrative Law (OAL) for a hearing and, pursuant to *N.J.A.C. 6A:28-10.7(b)*, the attorney for the Commission (Petitioner) was charged with prosecuting the allegations in the Complaint which the Commission found probable cause to credit.

At the OAL, the contested matter was assigned to the Honorable Jude-Anthony Tiscornia, Administrative Law Judge (ALJ Tiscornia). *Initial Decision* at 1. On September 29, 2021, Respondent filed a motion for summary decision, and Petitioner filed a cross-motion on October 19, 2021. *Id.* at 2. On January 31, 2022, ALJ Tiscornia granted Respondent's motion for summary decision in part, and ordered "that any charge or allegation set forth in the [C]omplaint that pertains to any event or any of [R]espondent's actions that transpired prior to June 11, 2020, be dismissed, as any such event would have occurred more than 180 days prior to the filing of

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<sup>1</sup> The Commission's determination resulted in the dismissal of Count 2 (in its entirety), and in the dismissal of certain claims in Count 3 and Count 4.

the [C]omplaint on December 8, 2020.” *Id.* With the denial of the balance of Respondent’s motion for summary decisions, as well as Petitioner’s cross-motion, the matter was heard on October 13, 2022, via Zoom. *Id.* On January 3, 2023, the parties’ final submissions were received by ALJ Tiscornia and, thereafter, the record closed. *Id.*

On February 15, 2023, ALJ Tiscornia issued an *Initial Decision* detailing his findings of fact and legal conclusions, and the Commission acknowledged receipt of same; therefore, the forty-five (45) day statutory period for the Commission to issue a Final Decision was April 3, 2023.<sup>2</sup> Prior to April 3, 2023, the Commission requested a forty-five (45) day extension of time to issue its final decision so as to provide the Commission, which only meets monthly, with the opportunity to receive and review the full record. 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 May 18, 2023.

At its regularly scheduled meeting on March 21, 2023, the Commission considered the full record in this matter. Subsequently, and at its regularly scheduled meeting on April 25, 2023, and for the reasons more fully detailed below, the Commission voted to **adopt** ALJ Tiscornia’s credibility determinations; **adopt** ALJ Tiscornia’s findings of fact; **adopt** the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), and/or *N.J.S.A.* 18A:12-24.1(f) on June 15, 2020 (Count 3); **adopt** the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), and/or *N.J.S.A.* 18A:12-24.1(f) on June 30, 2020 (Count 3); **adopt** the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(b) and/or *N.J.S.A.* 18A:12-24.1(f) on July 20, 2020<sup>3</sup> (Count 4); but to **reject** the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(c) on July 20, 2020 (Count 4). Based on its determination that Respondent violated *N.J.S.A.* 18A:12-24(c) when she voted to approve a shared services agreement with her employer, the Commission also voted to recommend a penalty of **reprimand**.

## II. Remaining Allegations in the Complaint

By way of background, Complainant states that the Board is a Type I school district, and its members are appointed by the Mayor of the Borough of East Newark (Borough). Respondent was appointed to the Board on or about March 11, 2019, and has served as its Board President since May 18, 2020. In addition, from approximately November 10, 2005, until July 31, 2020, Respondent was employed by the Borough in some capacity. While employed by the Borough, Respondent most recently served as the Chief Financial Officer (CFO), and previously served as Treasurer, Administrative Assistant, and Qualified Purchasing Agent. As the CFO, Complainant submits that Respondent “had a fiduciary responsibility towards the Borough.”

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<sup>2</sup> Forty-five (45) days after February 15, 2023, was, technically, Saturday, April 1, 2023; by rule, and because April 1, 2023, was a Saturday, the deadline was extended until the next business day, which was Monday, April 3, 2023.

<sup>3</sup> In the *Initial Decision*, ALJ Tiscornia erroneously cites the date of violation as June 20, 2020, but the date cited in the Complaint is July 20, 2020.

With the above in mind, and in Count 3, Complainant states that, on or about March 2, 2020, Respondent “voted in favor of a resolution, declaring it necessary to issue school bonds in the amount of \$2,041,350 for certain capital improvement projects and requiring the resolution to be delivered to the Board of School Estimate [(BSE)] and the Borough.” Complainant asserts that, despite being in charge of the Borough’s finances (as the Borough CFO), Respondent did not recuse herself from the vote. In addition, on or about June 15, 2020, Respondent appointed herself and another Board member (Joanna Lopez) to the BSE, despite the fact that she (Respondent) is the Borough CFO. Complainant further contends that, on or about June 30, 2020, Respondent “participated in the [BSE] meeting as the sole [Board] representative (Ms. Lopez was absent), and voted with the other [BSE] members present, in favor of a resolution determining that the Borough should issue school bonds and school promissory notes in the amount of \$2,041,350 to finance the [Board’s] capital improvement projects.” Based on these facts, Complainant contends Respondent has violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, and *N.J.S.A. 18A:12-24.1(f)* “continuously ... including on or about ... June 15, 2020, and June 30, 2020[,] in that she cannot properly carry out the public duties of her [Board] office without being prejudiced by or having her independent judgment impaired by her private interests and fiduciary duties as a Borough employee and her duties and responsibilities as a member of the [BSE].”

In Count 4, Complainant states that on or about July 20, 2020, Respondent voted to approve a “Shared Services Agreement between the [Board] and the Borough, which requires the [Board] to make payments to the Borough for lawn care/snow removal, transportation, and fuel.” Complainant further states, “[d]espite being the Borough CFO, in charge of the Borough’s finances including billing/invoices,” Respondent did not recuse herself from these votes. Based on these facts, Complainant asserts Respondent has violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, and *N.J.S.A. 18A:12-24.1(f)* “continuously ... including on or about July 20, 2020 in that she cannot properly carry out the public duties of her [Board] office without being prejudiced by or having her independent judgment impaired by her private interests and fiduciary duties as a Borough employee.”

### **III. Initial Decision**

In the *Initial Decision*, ALJ Tiscornia summarized the remaining issue in dispute as whether “there is a conflict between [R]espondent acting in her capacity as a [Board] member and simultaneously being employed as chief financial officer (CFO) for the Borough of East Newark.” *Id.* at 2.

ALJ Tiscornia next summarized the testimony offered by Complainant, the Board President; Kevin Harris (Harris), the Borough clerk; and Respondent. *Id.* at 3-8. Although ALJ Tiscornia found the testimony of Harris and Respondent to be credible, he found “the whole” of Complainant’s testimony to be not credible. *Id.* More specifically, despite knowing Respondent “for over fifteen years,” during which Respondent had almost always served as the CFO of East Newark, Complainant testified “she only came to know of [Respondent’s] employment with the Borough through a chance encounter with her at Borough Hall.” *Id.* at 5. Per ALJ Tiscornia, “I find this testimony to be not credible.” *Id.* In addition, Complainant testified that Respondent “publicly disclosed her employment with the Borough via her annual personal financial-disclosure statement,” but also testified she “failed to publicly disclose her employment with the Borough.” *Id.* As to this testimony, ALJ Tiscornia stated, “I find this testimony to be

contradictory and, therefore, not credible. *Id.* Finally, ALJ Tiscornia found that Complainant “failed to articulate exactly how” Respondent’s actions violated the cited provisions of the Act, but instead “continued to assert that she ‘felt’ as though [Respondent] was in violation and filed the ethics complaint based on this sentiment.” *Id.* at 5-6. Although she “testified that her conviction was supported by advice given her by an attorney,” Complainant “refused to provide the name of the attorney.” *Id.* at 6. As such, ALJ Tiscornia also found “this testimony to be not credible.” *Id.* In summary, ALJ Tiscornia stated, “[t]he sum of [Complainant’s] non-credible testimony and the clandestine attorney consultation wherein [she] was advised to pursue the ethics complaint renders the whole of [Complainant’s] testimony not credible. *Id.*

In his review, and with the dismissal of all other untimely claims, ALJ Tiscornia noted that the following three events remain: (1) on June 15, 2022, Respondent, as Board President, appointed herself to the BSE; (2) on July 20, 2020,<sup>4</sup> Respondent voted as a Board member to approve a shared services agreement with the Borough; and (3) on June 30, 2020, she voted as a member of the BSE to authorize the issuance of bonds and notes to finance District “capital improvement projects” (that she had also voted to support in her capacity as a Board member). *Id.* at 8.

As to these remaining events, ALJ Tiscornia issued the following *findings of fact*: Respondent was appointed to the Board in 2019, and began serving as President in May 2020. *Id.* at 9. As a Type I school district, all Board members are appointed by the mayor of the Borough of East Newark. *Id.* During her tenure as a Board member, Respondent was also employed part-time by the Borough as its CFO. *Id.*

If/when the Board determines that school bonds should be sold to raise money for a capital project, the Board must pass a resolution determining that it is necessary to sell those bonds, and then deliver a statement of the amount of money necessary for the capital project. *Id.* This statement is then reviewed by the Borough’s BSE. *Id.* The BSE consists of five members: the mayor, two members of Borough Council, and two members of the Board who are appointed by the Board President. *Id.*

On June 15, 2020, while serving as Board President, Respondent appointed herself and one other member of the Board to the Borough’s BSE. *Id.* At the June 30, 2020, BSE meeting, Goncalves voted in favor of a resolution “fixing and determining the amount of school bonds to be issued by the Borough of East Newark to finance various improvements to the East Newark Public School.” *Id.*

Based on the findings of fact detailed above, ALJ Tiscornia **concludes** that *N.J.S.A.* 18A:12-24(a) does not preclude an individual employed by a municipality from serving on the Board, and Complainant did not offer any evidence to support such an assertion. *Id.* at 9-10.

Regarding the alleged violation of *N.J.S.A.* 18A:12-24(b), Complainant “offered no evidence or testimony that [Respondent], through her status as a Board member, derived any unwarranted privileges, advantages or employment for herself or anyone else”; Complainant did not offer any evidence or testimony to show that Respondent received any compensation in

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<sup>4</sup> In the *Initial Decision*, ALJ Tiscornia erroneously cites the date of violation as June 20, 2020, but the date cited in the Complaint is July 20, 2020.

appointing herself to the BSE, and Respondent testified it was “customary” for the Board President to appoint themselves to the BSE; Respondent’s “self-appointment appears to be derived from mundane necessity more than illicit self-enrichment”; there is no “allegation that [Respondent] could possibly inure a personal benefit from voting in favor of issuing bonds to fund maintenance of existing school structures; and the “only conceivable benefit derived from the proper maintenance of the buildings is one inured to the general public ... for having their school facilities well maintained.” *Id.* at 10. For these reasons, ALJ Tiscornia **concludes** that Complainant failed to show how Respondent violated *N.J.S.A.* 18A:12-24(b). *Id.*

As for the stated violation of *N.J.S.A.* 18A:12-24(c), ALJ Tiscornia found that Complainant failed “to articulate how [Respondent’s] objectivity and/or independence of judgment was impaired.” *Id.* at 11. Although, through her testimony, Complainant inferred that “the interests of the Borough are contrary to those of the Board,” “no sound evidence of such a conflict has been presented to support [Complainant’s] own opinion and conjecture.” *Id.* As a result, ALJ Tiscornia **concludes** that Complainant failed to show how Respondent violated *N.J.S.A.* 18A:12-24(c). *Id.*

Regarding the purported violation of *N.J.S.A.* 18A:12-24(d), ALJ Tiscornia found that Complainant failed to articulate how Respondent’s independence of judgment as a Board member was impaired due to her simultaneous employment as the CFO of East Newark. *Id.* Again, although her testimony inferred that the interests of the Borough are contrary to those of the Board, “no sound evidence of such a conflict has been presented to support [Complainant’s] own opinion and conjecture.” *Id.* Consequently, ALJ Tiscornia **concludes** that Complainant failed to show how Respondent violated *N.J.S.A.* 18A:12-24(d). *Id.* at 12.

Finally, and as for the alleged violation of *N.J.S.A.* 18A:12-24.1(f), Complainant has failed to articulate how Respondent “surrendered her independent judgment to special-interest or partisan political groups” and, in fact, “the whole of the testimony presented by [Complainant] did not even mention special-interest groups or partisan politics, whatsoever.” *Id.* Therefore, ALJ Tiscornia **concludes** that Complainant failed to show how Respondent violated *N.J.S.A.* 18A:12-24.1(f). *Id.*

Based on his findings of fact and legal conclusions, ALJ Tiscornia **orders** that the Complaint be **dismissed**. *Id.*

#### IV. Exceptions

The *Initial Decision* was sent to the parties on February 15, 2023, and stated, in relevant part, “Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the” Commission. *N.J.A.C.* 1:1-18.4(a). As of February 28, 2023,<sup>5</sup> which was thirteen (13) days after the *Initial Decision* was mailed to the parties, neither Petitioner nor Respondent filed exceptions and/or requested an extension to do so.

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<sup>5</sup> Thirteen days after February 6, 2023, was, technically, Sunday, February 19, 2023; by rule, and because February 19, 2023, was a Sunday, and February 20, 2023, was a holiday, the deadline was extended until the next business day, which was Tuesday, February 21, 2023.

## V. Analysis

Following receipt of an initial decision, the Commission “may enter an order or a final decision adopting, rejecting, or modifying” it. *N.J.A.C.* 1:1-18.6(a). The Commission is also authorized to “reject or modify conclusions of law, interpretations of agency policy, or findings of fact not relating to issues of credibility of lay witness testimony,” but “may not reject or modify any finding of fact as to issues of credibility of lay witness testimony unless it first determines from a review of a record that the findings are arbitrary, capricious or unreasonable, or are not supported by sufficient, competent, and credible evidence in the record.” *N.J.A.C.* 1:1-18.6(b); *N.J.A.C.* 1:1-18.6 (c).

As an initial matter, and given the limited circumstances in which it may reject or modify a finding(s) of fact as to issues of credibility, the Commission finds an insufficient basis upon which to reject or modify the credibility determinations set forth in the *Initial Decision*, particularly those relating to Complainant’s credibility. Moreover, and following a careful and independent review of the facts and evidence set forth in the record, the Commission adopts ALJ Tiscornia’s findings of fact; adopts the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), and/or *N.J.S.A.* 18A:12-24.1(f) on June 15, 2020 (Count 3), when she appointed herself to serve on the Board of School Estimate (BSE); adopts the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), and/or *N.J.S.A.* 18A:12-24.1(f) on June 30, 2020 (Count 3), when, in her capacity as a member of the BSE, she voted to authorize the issuance of bonds; adopts the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(b) and/or *N.J.S.A.* 18A:12-24.1(f) on July 20, 2020 (Count 4), when she voted to approve a shared services agreement between the Board and her employer; but rejects the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(c) on July 20, 2020, when she voted to approve a shared services agreement between the Board and her employer.

With regard to Respondent’s self-appointment to the BSE on June 15, 2020 (Count 3), and her vote (on the BSE) to authorize the issuance of bonds on June 30, 2020 (Count 3), the Commission agrees with ALJ Tiscornia that, based on the record, there is insufficient factual evidence that either action constituted use or attempted use of her official position to secure an unwarranted privilege, advantage, or employment for herself, a member of her immediate family, or an “other” (*N.J.S.A.* 18A:12-24(b)); either constituted action in her official capacity in a matter where she, or a member of her immediate family, had a direct or indirect financial involvement that might reasonably be expected to impair her objectivity, or in a matter in which she had a personal involvement that created some benefit to her or to a member of her immediate family (*N.J.S.A.* 18A:12-24(c)); and/or either constituted action on behalf of, or at the request of, a special interest group or persons organized and voluntarily united in opinion and who adhere to a particular political party or cause, or use of the schools in order to acquire some benefit for herself, a member of her immediate family, or a friend (*N.J.S.A.* 18A:12-24.1(f)).

Although the Commission agrees that the record is equally devoid of sufficient factual evidence that Respondent violated *N.J.S.A.* 18A:12-24(b) and/or *N.J.S.A.* 18A:12-24.1(f) when, in her capacity as a member of the Board, she voted to approve a shared services agreement between the Board and her employer (the Borough), the Commission finds that her affirmative vote, in and of itself, constituted action in her official capacity in a matter where she, or a member of her immediate family, had a direct or indirect financial involvement that might

reasonably be expected to impair her objectivity (*N.J.S.A.* 18A:12-24(c)). Of importance, Respondent does not dispute the fact that, while she was employed by the Borough, she voted (in her official capacity as a Board member) in favor of the shared services agreement between the Board and the Borough. *See Answer to Complaint*, ¶ 12.

The Commission’s determination in this regard is guided by its past precedent.<sup>6</sup> More specifically, in [\*I/M/O Carvalho, Neron, and Nina, Elizabeth Board of Education, Union County \(Docket No. C10-16\)\*](#) and [\*I/M/O Nina, Carvalho, Neron, and Rodriguez, Elizabeth Board of Education, Union County \(Docket No. C11-16\) \(Consolidated\)\*](#), Respondents Carvalho, Nina, and Neron, all of whom were employed by the City of Elizabeth, were, among other things, alleged to have violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c) when, in their capacity as members of the Board, they voted to approve the appointment of an individual, who also served as a sitting Councilman on the governing body of their employer (the City of Elizabeth), to serve as an administrator in the Elizabeth Public Schools District.

In finding a violation of *N.J.S.A.* 18A:12-24(c), the Commission stated, in relevant part:

Based on the findings of fact [issued by the Administrative Law Judge], the Commission adopts the legal conclusion that by voting to appoint ... a sitting Councilman for the City (their employer), to the position of Assistant Superintendent *while* they were employed by the City, Carvalho, Nina, and Neron had a direct or indirect financial involvement in the vote, i.e., their employment, that might reasonably be expected to impair their objectivity or independence of judgment in violation of *N.J.S.A.* 18A:12-24(c). Because the vote to appoint [the Councilman] was tantamount to a vote for their employer, a reasonable member of the public could conclude that this employee-employer relationship impaired their objectivity and independence of judgment.

*Id.* at 3.

In affirming the Commission’s decision finding a violation of *N.J.S.A.* 18A:12-24(c), the Commissioner of Education found:

Upon a comprehensive review of the record, the Commissioner finds that the decision of the Commission as to a determination of a violation of *N.J.S.A.* 18A:12-24(c) is supported by sufficient credible evidence, and that the respondents have not established that the Commission’s decision is arbitrary, capricious or contrary to law. *N.J.A.C.* 6A:4-4.1(a). Pursuant to *N.J.S.A.* 18A:12-24(c), a school official may not act in a matter in which he or she “has a direct or indirect financial involvement that might reasonably be expected to impair his [or her] objectivity or independence of judgment.” Given that respondents worked for the City of Elizabeth and Cuesta was a sitting City councilman, respondents had

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<sup>6</sup> Although there are several public advisory opinions which discuss whether a school official would violate the Act if they were involved in matters related to their employer (including discussions and/or votes), namely [\*Advisory Opinion A01-19\*](#), [\*Advisory Opinion A12-21\*](#), [\*Advisory Opinion A13-21\*](#), they were either issued and/or made public after the above-captioned matter was filed with the Commission on December 8, 2020.

direct or indirect involvement that could reasonably be expected to impair their objectivity or independence of judgment because they were voting for their employer. As such, for the reasons expressed in the Commission's comprehensive decision, the respondents' conduct violated *N.J.S.A.* 18A:12-24(c).

[See I/M/O Carvalho, Neron, and Nina, Elizabeth Board of Education, Union County \(Docket No. C10-16\) and I/M/O Nina, Carvalho, Neron, and Rodriguez, Elizabeth Board of Education, Union County \(Agency Docket No. 5-9/17A\) \(Consolidated\)](#) at 5-6.

Based on its precedent in this area, and because Respondent voted to approve a shared services agreement between the Board and the Borough (her employer), at a time when she was serving as both a member of the Board and as an active employee of the Borough, the Commission finds that the record supports a finding that Respondent violated *N.J.S.A.* 18A:12-24(c).

## VI. Decision

For the aforementioned reasons, the Commission **adopts** ALJ Tiscornia's credibility determinations; **adopts** ALJ Tiscornia's findings of fact; **adopts** the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), and/or *N.J.S.A.* 18A:12-24.1(f) on June 15, 2020 (Count 3); **adopts** the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), and/or *N.J.S.A.* 18A:12-24.1(f) on June 30, 2020 (Count 3); **adopts** the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(b) and/or *N.J.S.A.* 18A:12-24.1(f) on July 20, 2020 (Count 4); but **rejects** the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(c) on July 20, 2020 (Count 4).

## VII. Penalty

Having found that Respondent violated *N.J.S.A.* 18A:12-24(c), and following its review of the record, the Commission recommends a penalty of **reprimand**, the lowest form of sanction/penalty that can be imposed for a violation of the Act. Although, following its finding of a violation in [I/M/O Carvalho, Neron, and Nina, Elizabeth Board of Education, Union County \(Docket No. C10-16\) and I/M/O Nina, Carvalho, Neron, and Rodriguez, Elizabeth Board of Education, Union County \(Docket No. C11-16\) \(Consolidated\)](#), the Commission recommended a penalty of censure, the Commissioner of Education modified the recommended penalty to reprimand. In modifying the penalty, the Commissioner of Education stated, in pertinent part:

... Although the conflict of interest respondents had in voting for [the Councilman] despite their employment with the City was enough to warrant a violation of *N.J.S.A.* 18A:12-24(c), it does not rise to the same level of political cronyism that the Commission was concerned with in [other matters], which resulted in the increased sanction from reprimand to censure. Therefore, the Commissioner finds that a reprimand is the appropriate penalty for [R]espondents in this matter.

[See I/M/O Carvalho, Neron, and Nina, Elizabeth Board of Education, Union County \(Docket No. C10-16\) and I/M/O Nina, Carvalho, Neron, and Rodriguez, Elizabeth Board of Education, Union County \(Agency Docket No. 5-9/17A\) \(Consolidated\)](#) at 7. Accordingly, and



without any evidence of political cronyism or any other aggravating factor, the Commission recommends that Respondent be **reprimanded** for having violated *N.J.S.A.* 18A:12-24(c).

Pursuant to *N.J.S.A.* 18A:12-29(c), this decision shall be forwarded to the Commissioner of Education (Commissioner) for review of the Commission's recommended sanction. 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," as well as to [ControversiesDisputesFilings@doe.nj.gov](mailto:ControversiesDisputesFilings@doe.nj.gov). A copy of any comments filed must be sent to the Commission ([school.ethics@doe.nj.gov](mailto:school.ethics@doe.nj.gov)) 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, *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.

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Robert W. Bender, Chairperson  
School Ethics Commission

Mailing Date: April 25, 2023

## ***Resolution Adopting Decision in Connection with C81-20***

***Whereas***, at its meeting on May 25, 2021, the School Ethics Commission (Commission) voted to transmit the above-captioned matter to the Office of Administrative Law (OAL) for a hearing; and

***Whereas***, at the OAL, the contested matter was assigned to the Honorable Jude-Anthony Tiscornia, Administrative Law Judge (ALJ Tiscornia); and

***Whereas***, on February 15, 2023, ALJ Tiscornia issued an *Initial Decision* detailing his findings of fact and legal conclusions; and

***Whereas***, neither party filed Exceptions to ALJ Tiscornia's *Initial Decision*; and

***Whereas***, at its meeting on March 21, 2023, the Commission reviewed and discussed the full record in the above-captioned matter; and

***Whereas***, at its meeting on March 21, 2023, the Commission discussed adopting ALJ Tiscornia's credibility determinations; adopting ALJ Tiscornia's findings of fact; adopting the legal conclusion that Respondent did not violate *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, and/or *N.J.S.A. 18A:12-24.1(f)* on June 15, 2020 (Count 3); adopting the legal conclusion that Respondent did not violate *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, and/or *N.J.S.A. 18A:12-24.1(f)* on June 30, 2020 (Count 3); adopting the legal conclusion that Respondent did not violate *N.J.S.A. 18A:12-24(b)* and/or *N.J.S.A. 18A:12-24.1(f)* on July 20, 2020 (Count 4); rejecting the legal conclusion that Respondent did not violate *N.J.S.A. 18A:12-24(c)* on July 20, 2020 (Count 4); and recommending a penalty of reprimand; and

***Whereas***, at its meeting on April 25, 2023, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on March 21, 2023; and

***Now Therefore Be It Resolved***, the Commission hereby adopts the within decision.

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Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its regularly scheduled meeting on April 25, 2023.

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