

***Before the School Ethics Commission***  
***Docket No.: C97-22***  
***Final Decision***

---

**Vera Darmo,  
Complainant**

v.

**Robert Dovey, Harry Litwack, Marisa Karamanoogian, Catherine Turcich-Kealey,  
Eric Mossop, James Hozier, and Robert Danser,  
Delanco Board of Education, Burlington County,  
Respondents**

---

**I. Procedural History**

This matter arises from a Complaint that was filed on October 30, 2022, by Vera Darmo (Complainant), alleging that Robert Dovey, Harry Litwack, Marisa Karamanoogian, Catherine Turcich-Kealey, Eric Mossop, James Hozier, and Robert Danser (collectively referred to as Respondents), members of the Delanco Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* More specifically, the Complaint avers that Respondents violated *N.J.S.A.* 18A:12-24.1(a) of the Code of Ethics for School Board Members (Code).

On November 1, 2022, the Complaint was served on Respondents via electronic mail, notifying them that ethics charges had been filed against them with the School Ethics Commission (Commission), and advising that they had twenty (20) days to file a responsive pleading.<sup>1</sup> On November 29, 2022, Respondents filed an Answer to Complaint (Answer).<sup>2</sup>

By correspondence dated December 12, 2022, the parties were advised that the above-captioned matter would be placed on the Commission's agenda for its regularly scheduled meeting on December 20, 2022, As further detailed in its correspondence, and in accordance with *N.J.A.C.* 6A:28-10.8, the Commission advised the parties that it could take one of several actions at its meeting, including: (1) retaining the matter for a hearing by the Commission at a later date; (2) transmitting the matter to the Office of Administrative Law for a hearing; (3) tabling the matter; or (4) dismissing the above-captioned matter.

---

<sup>1</sup> 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.

<sup>2</sup> Although Respondents initially filed their Answer to Complaint on November 28, 2022, it was missing a signature from one of the named Respondents; however, on November 29, 2022, an Answer to Complaint bearing all required signatures was filed with the Commission.

At its meeting on December 20, 2022, the Commission considered the filings in this matter and, at its special meeting on January 31, 2023, the Commission voted, pursuant to its authority as set forth in *N.J.A.C. 6A:28-10.2(a)(7)* and *N.J.A.C. 6A:28-10.8(a)*, to dismiss the above-captioned matter in its entirety for failure to state a claim upon which relief could be granted.

## **II. Summary of the Pleadings**

### **A. *The Complaint***

Complainant, a former member of the Board, states that, during Executive Session on June 8, 2022, she was “barred from participating in the annual superintendent/[Chief School Administrator (CSA)] evaluation” by the named Respondents. According to Complainant, the Board attorney asked *the Board* whether they believed that Complainant could be objective and unbiased in her rating of the superintendent/CSA. The Board then discussed the fact that Complainant had given the superintendent the lowest marks possible for the previous year’s evaluation; asked procedural questions as to how the superintendent could be removed; and had been “hostile” toward the superintendent in public session, a characterization with which Complainant disagreed.

Based on Respondents’ “characterization of [Complainant’s] past behavior as ‘hostile’ to the superintendent/CSA,” a majority of those present voted “no.” Per Complainant, Board counsel also indicated “there was plenty of precedent from the ... Commission disqualifying [B]oard members from participating in the superintendent/CSA evaluation because they had been ‘in conflict with the superintendent.’” However, “after an exhaustive search,” including contacting the New Jersey School Boards Association (NJSBA) for guidance, Complainant submits that she could not locate the precedent referred to by Board counsel.

Because she was unlawfully barred from evaluating the superintendent/CSA by the named Respondents, she submits that they violated *N.J.S.A. 18A:12-24.1(a)*.

Of note, of the three Respondents who “voted to bar” Complainant from participating in the CSA evaluation, two are not running for re-election (in November 2022), and the other resigned in the summer of 2022.

### **B. *Answer***

In their “Answer and Written Statement Under Oath,” Respondents deny that they voted to bar Complainant’s participation, but did discuss whether she was conflicted because of her “pattern of conduct both towards and regarding the superintendent.” Ultimately, the named Respondents agreed Complainant was conflicted and could not vote because of her “persistent and repeated hostility towards the superintendent for no justifiable reason.”

Following receipt of the Complaint, Respondents filed an “Answer and Written Statement Under Oath.” In their “Answer,” Respondents admit that, during Executive Session on June 8, 2022, there was a discussion as to whether Complainant was conflicted from participating in the superintendent’s evaluation due to her “pattern of conduct both towards and regarding the superintendent.” Following the discussion, it was determined by the Board that Complainant did not have the capacity to be objective or unbiased; however, Respondents deny that a vote was taken.

Instead, the Board President took a poll of the Board members, and the named Respondents affirmatively indicated that Complainant was incapable of being objective and unbiased.

Respondents also admit, during Executive Session, Complainant's conduct was specifically discussed, including that she gave the superintendent the lowest possible marks in all categories of his prior evaluation, and refused to listen to any person who brought evidence of the superintendent's positive performance. Respondents also admit they discussed the fact Complainant had gone to other local boards of educations and asked how to "get rid of" the superintendent. Respondents submit that Complainant did not participate in the superintendent's evaluation because she is a conflicted Board member, which is evidenced by her "persistent and repeated hostility towards the superintendent for no justifiable reason."

In their "Written Statement Under Oath," Respondents provided an exhaustive list of examples of Complainant's conduct that was discussed, including: (1) Complainant made statements to other Board members while running for election that her main goal was to "get rid" of the Superintendent; (2) Complainant had openly asked during public sessions for information on how to end the employment contract with the superintendent; (3) Complainant repeatedly inundated the superintendent with questions concerning minor issues which were not a main concern of the Board, and then publicly criticized the Superintendent for not responding to all of her questions; (4) Complainant sent the superintendent hundreds of emails questioning all aspects of his job performance; (5) Complainant would raise issues during public Board meetings to put the superintendent "on the spot" and make him appear ineffective and/or ill-prepared, despite being advised both by the superintendent and others to advise the superintendent in advance on specific issues she wished to discuss at meetings so he could present her with the requested information, which she refused to do; (6) Complainant purposely asked questions of the superintendent concerning confidential matters to elicit the response from the superintendent that he could not publicly answer, a duty of confidentiality that Complainant was fully aware of; and (7) Complainant was openly hostile toward the superintendent at Board meetings. Based on her behavior, Respondents assert they individually decided that Complainant's pattern of conduct demonstrated that she was wholly unfit to evaluate the superintendent because she could not be objective and unbiased.

In addition, Respondents argue that Complainant has not stated a cognizable claim under *N.J.S.A.* 18A:12-24.1(a) as Complainant has not pointed to a single law, rule, regulation, or court order that the Board failed to uphold, and the two Commission decisions referred to by Complainant do not stand for the proposition that a Board member has to be involved in actual litigation in order to have a conflict of interest. Furthermore, Respondents argue that Complainant has not indicated which Commission decision the Board supposedly violated when it discussed her conflict of interest in executive session.

Accordingly, Respondents request that the Commission dismiss the complaint with prejudice or, alternatively, find that a violation of the Act has not occurred.

### **III. Analysis**

Complainant has the burden to factually establish a violation of the Code in accordance with the standards set forth in *N.J.A.C.* 6A:28-6.4(a). A complaint must include, among other requirements, specific allegations and the facts supporting them that gave rise to the alleged

violation(s) of the Act. *N.J.A.C. 6A:28-6.3(b)(3)*. The Commission's regulations authorize it, in its discretion, to dismiss a complaint when, on its face, it fails to allege facts sufficient to maintain a claim under the Act. *N.J.A.C. 6A:28-10.2(a)(7)*; *N.J.A.C. 6A:28-10.8(a)(5)*.

Complainant contends that Respondents violated *N.J.S.A. 18A:12-24.1(a)* of the Code, and this provision states, "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."

Pursuant to *N.J.A.C. 6A:28-6.4(a)(6)*, 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 Respondents failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that Respondents brought about changes through illegal or unethical procedures.

Based on its review, the Commission finds that even if the facts as pled in the Complaint are proven true by sufficient credible evidence, they would not support a finding that Respondents violated *N.J.S.A. 18A:12-24.1(a)*. Despite being required by *N.J.A.C. 6A:28-6.4(a)(1)*, Complainant has not provided **a copy of a final decision(s)** from any court of law or other administrative agency demonstrating or finding that any of the named Respondents, either individually or collectively, 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 they brought about changes through illegal or unethical procedures, when they engaged in any of the actions/conduct set forth in the Complaint.

Accordingly, and for the reasons set forth above, the Commission finds that the Complaint, on its face, fails to allege facts sufficient to find a violation of *N.J.S.A. 18A:12-24.1(a)*.

#### **IV. Decision**

Based on the foregoing, and pursuant to its authority as set forth in *N.J.A.C. 6A:28-10.2(a)(7)* and *N.J.A.C. 6A:28-10.8(a)*, the Commission dismisses the above-captioned matter in its entirety for failure to state a claim upon which relief could be granted.

This decision is a final decision of an administrative agency and, therefore, it is appealable to the Superior Court, Appellate Division. *See, New Jersey Court Rule 2:2-3(a)*.

---

Robert W. Bender, Chairperson

Mailing Date: January 31, 2023

***Resolution Adopting Decision  
in Connection with C97-22***

*Whereas*, at its meeting on December 20, 2022, the School Ethics Commission (Commission) considered the Complaint and Answer to Complaint (Answer) filed by the parties in connection with the above-captioned matter; and

*Whereas*, at its meeting on December 20, 2022, the Commission discussed finding that the Complaint, on its face, fails to allege sufficient facts to find a violation of *N.J.S.A.* 18A:12-24.1(a); and

*Whereas*, at its meeting on December 20, 2022, the Commission discussed, pursuant to its authority as set forth in *N.J.A.C.* 6A:28-10.2(a)(7) and *N.J.A.C.* 6A:28-10.8(a)(5), dismissing the above-captioned matter; and

*Whereas*, at its special meeting on January 31, 2023, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on December 20, 2022; and

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

---

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its special meeting on January 31, 2023.

---

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