

***Before the School Ethics Commission***  
***Docket No.: C03-24***  
***Decision on Probable Cause***

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**Rebecca Nieves,  
Complainant**

**v.**

**Cheryl Pitts, Joe Thomas, Lorraine Dredde, Kelly Thomas, Rita Martin  
and Julie Peterson,  
Winslow Township Board of Education, Camden County,  
Respondents**

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**I. Procedural History**

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on January 16, 2024,<sup>1</sup> by Rebecca Nieves (Complainant), alleging that Cheryl Pitts (Respondent Pitts), Joe Thomas (Respondent J. Thomas), Lorraine Dredde (Respondent Dredde), Kelly Thomas (Respondent K. Thomas), Rita Martin (Respondent Martin) and Julie Peterson (Respondent Peterson) (collectively, Respondents), members of the Winslow Township 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 Respondent J. Thomas violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c), and all Respondents violated *N.J.S.A.* 18A:12-24(e), as well as *N.J.S.A.* 18A:12-24.1(b) and *N.J.S.A.* 18A:12-24.1(f) of the Code of Ethics for School Board Members (Code).

On March 7, 2024, Respondents filed a Written Statement, and also alleged that the Complaint is frivolous. On March 25, 2024, Complainant filed a response to the allegation of frivolous filing.

The parties were notified by correspondence dated August 20, 2024, that the above-captioned matter would be discussed by the Commission at its meeting on August 27, 2024, in order to make a determination regarding probable cause and the allegation of frivolous filing. Following its discussion on August 27, 2024, the Commission adopted a decision at its meeting on September 24, 2024, finding that there are insufficient facts and circumstances pled in the Complaint and in the Written Statement to lead a reasonable person to believe that the Act was violated as alleged in the Complaint. The Commission also adopted a decision finding the Complaint not frivolous, and denying Respondents' request for sanctions.

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<sup>1</sup> On January 4, 2024, Complainant filed a deficient Complaint; however, on January 16, 2024, Complainant cured all defects and filed an Amended Complaint that was deemed compliant with the requirements detailed in *N.J.A.C.* 6A:28-6.3.

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

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

Complainant asserts that Respondent J. Thomas has “failed to perform his duties as a [B]oard member by not attending regular committee meetings, walking out of executive session, and general behavior unbecoming an elected official.” According to Complainant, she believes that the Board President and former Vice President “have been unable and/or unwilling to deal” with Respondent Thomas’ behavior because of his “allegations of their own misconduct,” and Respondent J. Thomas “leveraged his documentation of complaints to compel the Board to vote him in as Vice President.” Complainant further asserts that Respondent J. Thomas has “sent out emails to the [B]oard, [B]oard solicitor, and Superintendent” related to Respondent Pitts, and included in those emails were police reports. Complainant contends Respondent Thomas violated *N.J.S.A. 18A:12-24(b)*, because in his capacity as a Board member, he used the “alleged violations” to secure himself a position of power on the Board and *N.J.S.A. 18A:12-24(c)*, because “in his pursuit of power [he] has impaired his objectivity to what is in the best interest of the schools. Had he felt these violations were so egregious, he should have reported to the proper authorities instead of using them to secure a more powerful position.”

Complainant further contends all Respondents violated *N.J.S.A. 18A:12-24(e)* because Respondent J. Thomas “used this information to unduly influence members of the [B]oard in order to secure the Vice President seat and the rest of the [B]oard followed suit in order to protect [Respondent] Pitts,” and therefore, “surrendered their independent judgment.”

Complainant also contends that Respondents violated *N.J.S.A. 18A:12-24.1(b)*, because none of the Respondents acted in the best interest of the children and violated *N.J.S.A. 18A:12-24.1(f)*, because they “surrendered their independent judgment to cover up allegations of violations, legal actions in order to protect themselves in [Respondent] Pitts’ case, in order to further his ambitions in [Respondent J.] Thomas’ case, and in order to protect a friend in the case of the rest of the [R]espondents.”

### **B. *Written Statement and Allegation of Frivolous Filing***

Respondents deny that Respondent J. Thomas sent the referenced emails as they were not included in the Complaint; deny that Respondent J. Thomas failed to perform his duties; deny that Respondent J. Thomas leveraged any allegations of misconduct to secure the Vice President position; and deny that Respondent J. Thomas was elected to Vice President for any other reason than he was considered to be the best choice by a majority of the Board.

As to a violation of *N.J.S.A. 18A:12-24(b)*, Respondents argue that Complainant’s allegations are based on her “personal suspicion” and not facts. Respondents further argue that Complainant does not provide any evidence to show how Respondent J. Thomas “used the fact that he had a minor interpersonal conflict” with Respondent Pitts to convince her and four other Board members to secure an unwarranted benefit nor how it got him the position as Vice President. Moreover, Complainant assumes that Respondent J. Thomas’ position as Vice President is the unwarranted privilege. Although Complainant was an advocate and supported

the other candidate for Vice President, the Board did not feel the same way, and their actions not to vote for that candidate, but instead voting for Respondent J. Thomas, cannot be considered an unwarranted privilege or a violation of the Act.

Regarding a violation of *N.J.S.A.* 18A:12-24(c), Respondents contend that Complainant did not explain how Respondent J. Thomas violated this provision nor how his actions provided him, or anyone else with a benefit.

As to a violation of *N.J.S.A.* 18A:12-24(e), Respondents assert Complainant did not provide any evidence to demonstrate the Respondent J. Thomas has a minor interpersonal conflict with another Board member and used that to get the rest of the Respondents to surrender their judgment.

Regarding a violation of *N.J.S.A.* 18A:12-24.1(b), Respondents maintain that simply because Respondent J. Thomas is the Vice President, instead of Complainant's choice for Vice President, that does not support a violation of this provision. Simply put, the election of one Board member over another is not "a decision contrary to the educational welfare of children."

As to a violation of *N.J.S.A.* 18A:12-24.1(f), Respondents contend Complainant did not provide any evidence to support the allegation that the Board members surrendered their independent judgment to a special interest group, simply by electing one of their fellow Board members as the Vice President, instead of another.

Finally, Respondents assert the Complaint is **frivolous** because it stems from Complainant's displeasure with the choice for Vice President. Respondents maintain the Board chose the Vice President they wanted and who they thought would serve best in that role.

### ***C. Response to Allegation of Frivolous Filing***

Complainant maintains that upon review of the emails Respondent J. Thomas sent to the Board, Board counsel and Superintendent, any "reasonable person" would conclude that something outside the Board's purview occurred. Complainant notes that she has testimony from an individual who was a Board member during the time the alleged conduct occurred. Complainant further notes, she did not mention who she supported for Vice President, but she was instead highlighting that the other candidate was highly qualified and instead the Board chose the individual who was not nearly as qualified and in his first year of service. Complainant "implore[s] the [C]ommission to consider what happens when such backroom deals are left unchecked."

### **III. Analysis**

This matter is before the Commission for a determination of probable cause pursuant to *N.J.A.C.* 6A:28-9.7. 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. Pursuant to *N.J.A.C.* 6A:28-9.7(a), probable cause "shall be found when the facts and

circumstances presented in the complaint and written statement would lead a reasonable person to believe that the Act has been violated.”

### *Alleged Violations of the Act*

Complainant submits that, based on the conduct more fully detailed above, Respondent J. Thomas violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c), and all Respondents violated *N.J.S.A.* 18A:12-24(e). These provisions of the Act 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;

e. No school official, or member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the school official has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the school official in the discharge of his official duties;

Complainant further submits that all Respondents violated *N.J.S.A.* 18A:12-24.1(b) and *N.J.S.A.* 18A:12-24.1(f), and these provisions of the Code provide:

b. I will make decisions in terms of the educational welfare of children and will seek to develop and maintain public schools that meet the individual needs of all children regardless of their ability, race, creed, sex, or social standing.

f. I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

***N.J.S.A. 18A:12-24(b) and N.J.S.A. 18A:12-24(c)***

Complainant asserts that Respondent J. Thomas violated *N.J.S.A. 18A:12-24(b)* and *N.J.S.A. 18A:12-24(c)* when he leveraged allegations of misconduct to compel the Board to vote him in as Vice President and secure a position of power on the Board. Respondents contend that Complainant does not provide any evidence to show how Respondent J. Thomas “used the fact that he had a minor interpersonal conflict” with Respondent Pitts to convince her and four other Board members to secure an unwarranted benefit nor how it got him the position as Vice President.

In order to credit a violation of *N.J.S.A. 18A:12-24(b)*, Complainant must provide sufficient factual evidence that Respondent J. Thomas used or attempted to use his official position to secure an unwarranted privilege, advantage or employment for himself, members of his immediate family, or “others.”

To credit a violation of *N.J.S.A. 18A:12-24(c)*, Complainant must provide sufficient factual evidence that Respondent J. Thomas acted in his official capacity in a matter where he, or a member of his immediate family, had a direct or indirect financial involvement that might reasonably be expected to impair his objectivity, or in a matter where he had a personal involvement that created some benefit to him, or to a member of his immediate family.

After review, the Commission finds that there are insufficient facts and circumstances presented in the Complaint and the Written Statement to lead a reasonable person to believe that *N.J.S.A. 18A:12-24(b)* and/or *N.J.S.A. 18A:12-24(c)* were violated. It is unclear from the Complaint what allegation of misconduct was made against Respondent Pitts or how that allegation forced a majority of the Board to vote Respondent J. Thomas into the position of Vice President. Further, the Complaint fails to demonstrate that Respondent attempted to secure an unwarranted privilege, advantage or employment, or that Respondent had a financial or personal involvement that created a benefit to him. The Commission notes that Board members may vote for their preferred choice for Vice President, and Complainant’s disagreement with the outcome does not mean that an ethics violation occurred. Accordingly, and pursuant to *N.J.A.C. 6A:28-9.7(b)*, the Commission dismisses the alleged violation(s) of *N.J.S.A. 18A:12-24(b)* and *N.J.S.A. 18A:12-24(c)*.

***N.J.S.A. 18A:12-24(e)***

Complainant contends all Respondents violated *N.J.S.A. 18A:12-24(e)* because Respondent J. Thomas used information to unduly influence Board members so he could become the Vice President, and the other Respondents surrendered their independent judgment by electing Respondent J. Thomas to Vice President in order to protect Respondent Pitts. Respondents assert Complainant did not provide evidence to demonstrate the Respondent J. Thomas has a minor interpersonal conflict with another Board member and used that to get the rest of the Respondents to surrender their judgment.

To credit a violation of *N.J.S.A. 18A:12-24(e)*, Complainant must provide sufficient factual evidence that Respondents, a member of their immediate family, or a business

organization in which they had an interest, solicited or accepted a gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing them, directly or indirectly, in the discharge of their official duties.

Following its assessment, the Commission finds that there are insufficient facts and circumstances presented in the Complaint and the Written Statement to lead a reasonable person to believe that *N.J.S.A. 18A:12-24(e)* was violated. The allegations in the Complaint do not involve Respondents receiving a gift, favor, or thing of value for the purpose of influencing the school officials in the discharge of their duties. Consequently, and pursuant to *N.J.A.C. 6A:28-9.7(b)*, the Commission dismisses the alleged violation(s) of *N.J.S.A. 18A:12-24(e)*.

***N.J.S.A. 18A:12-24.1(b)* and *N.J.S.A. 18A:12-24.1(f)***

Complainant contends that Respondents violated *N.J.S.A. 18A:12-24.1(b)* and *N.J.S.A. 18A:12-24.1(f)* because none of the Respondents acted in the best interest of the children and they surrendered their independent judgment to cover up allegations of violations. Respondents counter that voting for one of their fellow Board members as Vice President, instead of another, is not “a decision contrary to the educational welfare of children,” nor is it surrendering their independent judgment to a special interest group.

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

2. Factual evidence of a violation of *N.J.S.A. 18A:12-24.1(b)* shall include evidence that Respondents willfully made a decision contrary to the educational welfare of children, or evidence that Respondents took deliberate action to obstruct the programs and policies designed to meet the individual needs of all children, regardless of their ability, race, color, creed or social standing.

6. Factual evidence of a violation of *N.J.S.A. 18A:12-24.1(f)* shall include evidence that Respondents took 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 evidence that Respondents used the schools in order to acquire some benefit for themselves, a member of their immediate family or a friend.

Based on its review, the Commission finds that there are insufficient facts and circumstances presented in the Complaint and the Written Statement to lead a reasonable person to believe that *N.J.S.A. 18A:12-24.1(b)* and/or *N.J.S.A. 18A:12-24.1(f)* were violated. The Complaint does not set forth what decision or deliberate action Respondents took that was contrary to the educational welfare of children or to obstruct programs and policies designed to meet the needs of all children. To the extent that Complainant alleges the choice of Respondent J. Thomas as Vice President was the “decision,” the Commission finds that the election of Board members to leadership positions is not contrary to the educational welfare of children.

Additionally, Complainant fails to provide evidence that Respondents took action on behalf of a special interest group when they elected a Board Vice President. Therefore, and pursuant to *N.J.A.C. 6A:28-9.7(b)*, the Commission dismisses the alleged violation(s) of *N.J.S.A. 18A:12-24.1(b)* and *N.J.S.A. 18A:12-24.1(f)*.

#### **IV. Request for Sanctions**

At its meeting on August 27, 2024, the Commission considered Respondents' request that the Commission find the Complaint frivolous, and impose sanctions pursuant to *N.J.S.A. 18A:12-29(e)*. Despite Respondents' 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 September 24, 2024, the Commission adopted a decision finding the Complaint not frivolous, and denying the request for sanctions.

#### **V. Decision**

In accordance with *N.J.S.A. 18A:12-29(b)*, and for the reasons detailed herein, the Commission hereby notifies Complainant and Respondents that there are insufficient facts and circumstances pled in the Complaint and in the Written Statement to lead a reasonable person to believe that the Act was violated as alleged in the Complaint and, consequently, dismisses the above-captioned matter. *N.J.A.C. 6A:28-9.7(b)*. The Commission further advises the parties that, following its review, it voted to find that the Complaint is not frivolous, and to deny Respondents' request for sanctions.

The within 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)*. Under *New Jersey Court Rule 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.

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Robert W. Bender, Chairperson

Mailing Date: September 24, 2024

***Resolution Adopting Decision  
in Connection with C03-24***

***Whereas***, at its meeting on August 27, 2024, the School Ethics Commission (Commission) considered the Complaint, the Written Statement and allegation of frivolous filing, and the response to the allegation of frivolous filing submitted in connection with the above-referenced matter; and

***Whereas***, at its meeting on August 27, 2024, the Commission discussed finding that the facts and circumstances presented in the Complaint and the Written Statement would not lead a reasonable person to believe that the Act was violated and, therefore, dismissing the above-captioned matter; and

***Whereas***, at its meeting on August 27, 2024, the Commission discussed finding the Complaint not frivolous, and denying the request for sanctions; and

***Whereas***, at its meeting on September 24, 2024, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on August 27, 2024; 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.

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Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on September 24, 2024.

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Brigid C. Martens, Director  
School Ethics Commission