

***Before the School Ethics Commission***  
***Docket No.: C20-24***  
***Decision on Probable Cause***

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**Jennifer Naddeo and Mindy Rosen,  
Complainants**

v.

**Miriam Stern, Joel Mayer, Gina Winters, Benjamin Rood, Sally Tong,  
Kimberly Gallagher, Adam Greenbaum and Renee Churfane,  
Cherry Hill 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 February 22, 2024, by Jennifer Naddeo and Mindy Rosen (Complainants), alleging that Miriam Stern, Joel Mayer, Gina Winters, Benjamin Rood, Sally Tong, Kimberly Gallagher, Adam Greenbaum and Renee Churfane (Respondents), members of the Cherry Hill 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) in Counts 1 and 2. On March 13, 2024, Respondents filed a Written Statement.

The parties were notified by correspondence dated July 16, 2024, that the above-captioned matter would be discussed by the Commission at its meeting on July 23, 2024, in order to make a determination regarding probable cause. Following its discussion on July 23, 2024, the Commission adopted a decision at its meeting on August 27, 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.

**II. Summary of the Pleadings**

***A. The Complaint***

By way of background, Complainants maintain there was a vacant seat on the Board due to a resignation effective December 31, 2023, and the Cherry Hill School District (District) policy allowed interested individuals to submit letters of interest and a resume to the Business Administrator (BA), by December 22, 2023. According to Complainants, public notice was provided on January 30, 2024, for a special meeting that would be held on February 5, 2024, to discuss the vacant seat. Complainants assert the agenda did not reflect that a vote would occur regarding the vacant seat. Complainants note that the recording of the February 5, 2024, meeting

“identifies an approved motion to go to ‘closed’ Executive session,” where according to Complainants, the vote for a new Board member took place in private and then the Board contacted the “newly selected Board member and had her begin the process of completing paperwork, prior to any motion or vote.” Per Complainants, on February 13, 2024, Respondent Stern (Board President) announced that a Board member was selected, and would be sworn in, but the “announcement was made without a public vote on the matter.”

With the above in mind, and in Count 1, Complainants assert that the Board voted in closed session to appoint a new Board member. Complainants further assert the recording of the Board meeting indicates that the Board made an announcement as to the new member and also stated that the new Board member was in the process of completing the necessary paperwork; however, Complainants contend that the Board did not make a motion (or a second) to approve the new Board member. Complainants further contend that Respondents violated the New Jersey Open Public Meetings Act (OPMA)/Sunshine Law, *N.J.S.A.* 10:4-13(b)c. Complainants also assert Respondents violated *N.J.S.A.* 18A:12-24.1(a) because by violating the Sunshine Law, they acted illegally and unethically.

In Count 2, Complainants maintain on February 6, 2024, “prior to the official commencement of the” Board’s Strategic Planning subcommittee, Respondent Mayer (Board Vice President) announced to the three other committee members that they had selected a new Board member. Complainants assert Respondents violated the OPMA/Sunshine Law, *N.J.S.A.* 10:4-13(b)c, as well as *N.J.S.A.* 18A:12-24.1(a) because Respondent Mayer’s statement that they selected a new Board member “the evening after the closed executive session was held indicates a vote was held in closed session which is not allowed.” By conducting a vote in closed session, the Board acted illegally and unethically.

### ***B. Written Statement***

Respondents argue that Complainants “have failed to identify, let alone attach, ‘a final decision from any court of law or any administrative agency’ indicating that the Respondents failed to enforce all laws or brought changes about through illegal or unethical procedures,” and therefore, the Complaint must be dismissed. Moreover, Respondents assert that although Complainants name various Respondents, they allege actions taken by the whole Board, rather than individually named Board members.

### **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.”

### ***Jurisdiction of the Commission***

In reviewing the allegations 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 Complainants seek a determination from the Commission that Respondents' conduct/actions may have violated the OPMA/Sunshine Law and/or any Board policies, 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(s) in the appropriate tribunal, the Commission is not the appropriate entity to adjudicate those claims. Accordingly, those claims are dismissed.

### ***Alleged Violations of the Act***

Complainants submit that, based on the conduct more fully detailed above, Respondents violated *N.J.S.A.* 18A:12-24.1(a), and this provision of the Code provides:

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.

Pursuant to *N.J.A.C.* 6A:28-6.4(a), 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 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(a) was violated in Counts 1 and/or 2. The Commission notes, as explained above, it does not have jurisdiction over whether Respondents violated the OPMA/Sunshine Law by failing to take a vote on a new Board member in public. Additionally, despite being required by *N.J.A.C.* 6A:28-6.4(a)(1), the Commission finds that Complainants have not provided a copy of a final decision from any court of law or other administrative agency demonstrating or specifically finding that Respondents violated a specific law, rule, or regulation 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 acts/conduct set forth in the Complaint. Without the required final decision, a violation of *N.J.S.A.* 18A:12-24.1(a) cannot be supported. 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:12-24.1(a) in Counts 1 and 2.

#### **IV. Decision**

In accordance with *N.J.S.A.* 18A:12-29(b), and for the reasons detailed herein, the Commission hereby notifies Complainants 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 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: August 27, 2024

***Resolution Adopting Decision  
in Connection with C20-24***

***Whereas***, at its meeting on July 23, 2024, the School Ethics Commission (Commission) considered the Complaint and the Written Statement submitted in connection with the above-referenced matter; and

***Whereas***, at its meeting on July 23, 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 reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on July 23, 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 August 27, 2024.

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Brigid C. Martens, Director  
School Ethics Commission