

***Before the School Ethics Commission***  
***Docket No.: C73-23***  
***Probable Cause Notice***

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**Paul DeGroot,**  
***Complainant***

v.

**Christine Fano,**  
**Montville Township Board of Education, Morris County,**  
***Respondent***

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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 September 22, 2023, by Paul DeGroot (Complainant), alleging that Christine Fano (Respondent), a member of the Montville 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 violated *N.J.S.A.* 18A:12-24(d) in Count 1 and Count 2, as well as *N.J.S.A.* 18A:12-24.1(f) of the Code of Ethics for School Board Members (Code) in Count 1 and Count 2.

On October 10, 2023, Respondent filed a Written Statement, and also alleged that the Complaint is frivolous. On October 26, 2023, Complainant filed a response to the allegation of frivolous filing.

The parties were notified by correspondence dated March 19, 2024, that the above-captioned matter would be discussed by the Commission at its meeting on March 26, 2024, in order to make a determination regarding probable cause and the allegation of frivolous filing. Following its discussions on March 26, 2024, and April 30, 2024, the Commission adopted a decision at its meeting on April 30, 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 Respondent's request for sanctions.

**II. Summary of the Pleadings**

**A. *The Complaint***

Complainant notes that he ran for public office in 2023 for the position of Morris County Commissioner. Complainant also notes, that in addition to her position on the Board, Respondent serves on the Montville Township Committee, the Morris County Republican Committee, and as

President of the Montville Township Republican Committee. Complainant alleges that during the 2023 campaign, Respondent “committed election fraud by conspiring with others to have last minute candidates enter the [p]rimary to enhance the chances” for her favored line of candidates, who were in opposition to candidates in an opposing line/slate, including Complainant.

Complainant asserts that the purpose of these actions was to dilute the opposition vote and favor the party-supported candidates. According to Complainant, Respondent gathered signatures for a candidate for Morris County Commissioner and a candidate for County Clerk, while Respondent was already supporting candidates that were chosen at the Morris County Republican Convention. Complainant alleges that “in a conspiracy to defraud and cover up her involvement,” Respondent “deliberately and knowingly” gave the petitions to a third party “knowing that he would falsely swear under oath and notary, that he was in fact the ‘Circulator.’”

In Count 1 and Count 2, Complainant makes the same allegations, one count for each candidate that Respondent allegedly supported. Complainant contends that Respondent violated *N.J.S.A.* 18A:12-24.1(f) by surrendering her independent judgment to her political party, and therefore, undermined a legitimate political process. Complainant further contends that Respondent violated *N.J.S.A.* 18A:12-24(d) by undertaking employment, whether compensated or not, that might prejudice her independence of judgment in the exercise of her official duties.

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

Respondent describes Complainant as a “sore loser.” Respondent asserts that the facts identified by Complainant relate to her “political interests and have absolutely nothing to do with either the Board” or her role as a Board member. Respondent maintains that as long as she is not “overtly supporting candidates *in her role as a Board member*,” she may advocate for the candidates of her choosing, and that is not in violation of *N.J.S.A.* 18A:12-24.1(f). With respect to *N.J.S.A.* 18A:12-24(d), Respondent maintains that a “fundamental incompatibility” between her position on the Board and her involvement in politics has not been established.

Respondent asserts that the Complaint is frivolous and was filed for the purpose of settling political scores with Respondent, who Complainant blames for his loss in the last election.

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

Complainant asserts that Respondent did not deny the allegations in the Complaint and that Respondent’s conduct violated the public trust.

### **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.”

**A. 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 Complainant seeks a determination from the Commission that Respondent’s conduct/actions may have violated election laws, 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.

**B. Alleged Violations of the Act**

Complainant submits that, based on the conduct more fully detailed above, Respondent violated *N.J.S.A.* 18A:12-24(d), and this provision of the Act states:

d. No school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties;

Complainant further submits that Respondent violated *N.J.S.A.* 18A:12-24.1(f), and this provision of the Code provides:

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(d)**

In Count 1 and Count 2, Complainant argues that Respondent violated *N.J.S.A.* 18A:12-24(d) through her involvement in local politics, and that she has shown “by her illegitimate and unlawful actions that she will go to extreme measures and will be swayed by others,” demonstrating that she has “relinquished her independent judgment” as a Board member. Respondent counters that a fundamental incompatibility” between her position on the Board and her involvement in politics has not been demonstrated.

In order to credit a violation of *N.J.S.A.* 18A:12-24(d), Complainant must provide sufficient factual evidence that Respondent engaged in employment or service, regardless of

whether compensated, which might reasonably be expected to prejudice her independence of judgment in the exercise of her official duties.

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(d) was violated. Complainant has not demonstrated that Respondent's involvement in Republican committees for the Township and County might reasonably be expected to prejudice her independence of judgment in the exercise of her official duties as a Board member. While the Complaint contains detailed allegations regarding Respondent's allegedly fraudulent actions related to the primary election, it fails to demonstrate how Respondent's involvement in local politics relates to actions she takes as a Board member. Furthermore, the decisions she makes in her role in local politics do not inherently conflict with the decisions she makes as a Board member, as the duties do not generally overlap.<sup>1</sup> 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(d) in Count 1 and Count 2.

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

In Count 1 and Count 2, Complainant contends that Respondent violated *N.J.S.A.* 18A:12-24.1(f), because she surrendered her independent to her political party and undermined a legitimate political process by obtaining signatures for herself and for the gain of political friends, and fraudulently covered up her involvement in such activity. Respondent maintains that as long as she is not "overtly supporting candidates *in her role as a Board member*," she may advocate for the candidates of her choosing.

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(f) shall include evidence that Respondent 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 Respondent used the schools in order to acquire some benefit for herself, a member of her immediate family or a friend.

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:12-24.1(f) was violated. The Commission finds that the allegations in this matter do not relate to Respondent's position on the Board. Although Complainant alleges that Respondent took illegal action during a political campaign, Complainant does not make any allegations regarding how Respondent took action on behalf of, or at the request of, a political group in connection with the Board. While Respondent's alleged actions could implicate election law, it does not involve the Act. 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(f) in Count 1 and Count 2.

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<sup>1</sup> Although not alleged here, and not within the Commission's jurisdiction, *N.J.S.A.* 19:3-5.2 prohibits individuals elected to public office in the State from simultaneously holding any other elective public office.

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

At its meeting on March 26, 2024, 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 April 30, 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 Respondent 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 Respondent's 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: April 30, 2024

***Resolution Adopting Decision  
in Connection with C73-23***

***Whereas***, at its meetings on March 26, 2024, and April 30, 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 meetings on March 26, 2024, and April 30, 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 meetings on March 26, 2024, and April 30, 2024, the Commission discussed finding the Complaint not frivolous, and denying the request for sanctions; and

***Whereas***, at its meeting on April 30, 2024, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meetings on March 26, 2024, and April 30, 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 April 30, 2024.

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Brigid C. Martens, Director  
School Ethics Commission