

Before the School Ethics Commission
Docket No.: C75-23
Probable Cause Notice

Christopher C. Pinto,
Complainant

v.

Laura Cooper, Douglas Cusato, Irene Fenarjian, James (Rusty) Parrino,
Kristen Pedersen, Michael Pontillo, and Stacey Price,
Westwood Regional Board of Education, Bergen County,
Respondents

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on September 28, 2023, by Christopher C. Pinto (Complainant), alleging that Laura Cooper (Respondent Cooper), Douglas Cusato (Respondent Cusato), Irene Fenarjian (Respondent Fenarjian), James (Rusty) Parrino (Respondent Parrino), Kristen Pedersen (Respondent Pedersen), Michael Pontillo (Respondent Pontillo), and Stacey Price (Respondent Price) (collectively, Respondents), members of the Westwood Regional 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(b)* (Counts 5, 6, 9, 12, 14 and 17), *N.J.S.A. 18A:12-24.1(c)* (Counts 5, 9, 10 and Counts 16 through 20), *N.J.S.A. 18A:12-24.1(d)* (Count 6), *N.J.S.A. 18A:12-24.1(g)* (Counts 1 through 5, Counts 8 and 10, and Counts 14 through 20), *N.J.S.A. 18A:12-24.1(i)* (Counts 7, 11 and 13) of the Code of Ethics for School Board Members (Code).

On November 21, 2023, Respondents Cooper, Cusato, Fenarjian, Parrino, Pedersen and Price filed a joint Written Statement, and also alleged that the Complaint is frivolous. Also on November 21, 2023, Respondent Pontillo filed a separate Written Statement, and also alleged that the Complaint is frivolous. On December 12, 2023, Complainant filed a response to the allegations 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 allegations of frivolous filing. Following its discussions on March 26, 2024, and on April 30, 2024, the Commission adopted a decision at its meeting on April 30, 2024, finding that Counts 1 through 9 were untimely filed, and finding there are insufficient facts and circumstances pled in the Complaint and in the Written Statements 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' requests for sanctions.

II. Summary of the Pleadings

A. *The Complaint*

In Count 1, Complainant alleges that on August 25, 2022, at a public meeting of the Board, Respondents Pedersen, Pontillo and Price violated *N.J.S.A.* 18A:12-24.1(g) by providing inaccurate information, such as by conflating the terms, standards and curriculum, and by "leading parents to believe specific content is taught at a much younger age in the curriculum than it actually is." Complainant further alleges that Respondent Price repeatedly stated that she has been a health teacher for anywhere between 25 to 30 years and the other Respondents regularly rely on her as their "health curriculum expert." Complainant alleges that due to her education, experience, and expertise, Respondent Price was aware or should have been aware that the statements she and other Board members made are objectively false.

In Count 2, Complainant alleges that on August 26, 2022, Respondent Pedersen made factually incorrect statements on her Board member Facebook page in violation of *N.J.S.A.* 18A:12-24.1(g). Complainant further alleges that Respondent Pedersen improperly asserted, among other things, that the health standards require instruction on explicit sexual activity for students in "6th grade which is 10/11 year olds," while she is aware that the curriculum does not cover those topics at that age level.

In Count 3, Complainant alleges that at public meetings of the Board on August 25, 2022, and September 22, 2022, Respondents Pedersen, Pontillo and Price violated *N.J.S.A.* 18A:12-24.1(g) by continuing to give inaccurate information, even after being "educated and corrected" by the Superintendent and other Board members.

In Count 4, Complainant alleges that on September 29, 2022, while Respondent Cusato was a candidate for the Board, he posted a statement on his candidate Facebook page stating that schools in Bergen County are required to support a student's decision to identify as an animal. Complainant alleges that after being elected to the Board, Respondent Cusato refused to remove the post or otherwise correct the statement. Complainant alleges that the failure to correct the statement is a violation of *N.J.S.A.* 18A:12-24.1(g).

In Count 5, Complainant asserts that at a Curriculum Committee meeting on February 7, 2023, Respondents Cooper, Cusato, Pedersen and Price asked questions related to LGBTQ components of the curriculum, as well as the Gay Straight Alliance in the high school, and requested that the administration provide confidential data about the student population. Complainant further alleges that at a Board meeting on February 16, 2023, the report on the Curriculum Committee given by Respondent Price (the committee chairperson), did not accurately reflect the discussions at the committee meeting. Complainant asserts that Respondents Cooper, Cusato, Pedersen and Price violated *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(g) and *N.J.S.A.* 18A:12-24.1(b).

In Count 6, Complainant asserts that at the March 2023 Curriculum Committee meeting, Respondents, Cooper, Cusato, Pedersen, and Price wrongly claimed that “elementary physical education teachers violated [D]istrict policy by including the example of a family with ‘two moms or two dads’ within the third grade health lesson” on different types of families, in violation of *N.J.S.A. 18A:12-24.1(d)* and *N.J.S.A. 18A:12-24.1(b)*.

In Count 7, Complainant alleges that on March 20, 2023, Respondents Cooper, Cusato, Pedersen, and Fenarjian stated at a public Board meeting that teachers were changing the curriculum by including the example of “two mom/two dad” families in a third grade health “lesson on different types of families,” without following the proper protocol. Complainant asserts this is objectively false as “two mom/two dad” families are included as an example within the lesson topic, is objectively age-appropriate, and is also part of the State-mandated standards. Complainant alleges that Respondents Cooper, Cusato, Pedersen, and Fenarjian violated *N.J.S.A. 18A:12-24.1(i)*.

In Count 8, Complainant asserts that at the March 20, 2023, Board meeting, Respondents Cooper, Cusato, Pedersen, Pontillo and Price violated *N.J.S.A. 18A:12-24.1(g)* by continuing to spread misinformation about sensitive health education content and age-appropriateness.

In Count 9, Complainant asserts that at the March 20, 2023, Board meeting, Respondent Pontillo (Board President) created an ad hoc committee to study what the District can do about the health standards. Complainant asserts that Respondent specifically cited “community concerns” for the creation of the committee, but the majority of community engagement showed support for the health standards. Complainant asserts that by forming the committee in this way, Respondent Pontillo violated *N.J.S.A. 18A:12-24.1(b)* and *N.J.S.A. 18A:12-24.1(c)*.

In Count 10, Complainant alleges that at the Board meeting on April 27, 2023, Respondent Pontillo refused a request from a fellow Board member to place the ad hoc committee on the agenda, demonstrating Respondent Pontillo’s efforts to keep information from the public regarding the health standards, in violation of *N.J.S.A. 18A:12-24.1(c)* and *N.J.S.A. 18A:12-24.1(g)*.

In Count 11, Complainant alleges that he spoke at the Board meeting on April 27, 2023, and demanded an “apology for the false accusations made about teachers” in the District. Complainant alleges that while Respondent Pontillo made a general statement on behalf of the Board apologizing for any misunderstandings, Respondents Cooper, Cusato, Pedersen and Fenarjian failed to retract or apologize for their false statements, in violation of *N.J.S.A. 18A:12-24.1(i)*.

In Count 12, Complainant asserts that on April 29, 2023, Respondent Cusato made statements on his Board member Facebook page indicating that that there should be an opt-out for any lesson that mentions that a family can consist of two moms or two dads, and such a post is evidence that Respondent Cusato took action to obstruct programs and policies designed to meet the individual needs of all children, in violation of *N.J.S.A. 18A:12-24.1(b)*.

In Count 13, Complainant alleges that he spoke at the Board meeting on May 11, 2023, and for the second time demanded an apology for the false statements made at the previous meeting by Respondents Cooper and Pedersen. Complainant alleges Respondents Cooper and Pedersen violated *N.J.S.A. 18A:12-24.1(i)* by failing to retract or apologize for their false statements.

In Count 14, Complainant asserts that at the May 11, 2023, Board meeting, Respondent Parrino (the ad hoc committee chairperson) made a false report about the work and agenda of the committee, stating that the committee does not have “pre-formed plans or recommendations” and that “[t]he suggestions that the ad hoc committee is anti-LGBTQIA+ is categorically false.” Complainant alleges that the statements obstructed policies and programs designed to meet the needs of students and to keep the true agenda of the ad hoc committee from the public, in violation of *N.J.S.A. 18A:12-24.1(b)* and *N.J.S.A. 18A:12-24.1(g)*.

In Count 15, Complainant contends that at the May 11, 2023, Board meeting, Respondent Price repeated her false statements about health curriculum being “moved down from high school to middle school and now to elementary school” over the course of her 28 year career, without giving specific examples, in violation of *N.J.S.A. 18A:12-24.1(g)*.

In Count 16, Complainant alleges that at the June 15, 2023, Board meeting, the first report of the ad hoc committee “did not adequately inform the public about the work of the committee” and demonstrates that Respondents formed the committee with an outcome in mind, without seeking community input, in violation of *N.J.S.A. 18A:12-24.1(c)*. Complainant also alleged that Respondent Parrino violated *N.J.S.A. 18A:12-24.1(g)* by failing to truthfully report the work of the committee.

In Count 17, Complainant contends that at the July 20, 2023, Board meeting, Respondents voted in favor of a resolution, that passed by a vote of 7-2, requesting that the New Jersey Department of Education (NJDOE) reconsider the health standards. Complainant alleges that Respondents approved the resolution with none of the promised community input and that evidence demonstrates that the community supported the health standards. Complainant further contends that the decision to file the petition with the NJDOE was made to obstruct programs designed to meet the needs of LGBTQA+ students, in violation of *N.J.S.A. 18A:12-24.1(b)*, *N.J.S.A. 18A:12-24.1(c)* and *N.J.S.A. 18A:12-24.1(g)*.

In Count 18, Complainant alleges that the discussion following the passage of a resolution at the July 20, 2023, Board meeting, demonstrates that the vote was based on false statements and improper deference to another Board member as an expert despite the fact that testimony received by the Board contradicted her statements. Complainant further alleges that the Respondents violated *N.J.S.A. 18A:12-24.1(c)* and *N.J.S.A. 18A:12-24.1(g)*.

In Count 19, Complainant notes that the ad hoc committee considered two districts which also passed resolutions as models, but that those districts passed their resolutions a year earlier when there was less data and community input. Complainant asserts that when the Board passed the resolution on July 20, 2023, Respondents used language that was “significantly more harsh” than the model districts, and that the resolution adopted by the Board contained false

information, such as indicating that the resolution was based on community input and concerns, in violation of *N.J.S.A.* 18A:12-24.1(c) and *N.J.S.A.* 18A:12-24.1(g).

In Count 20, Complainant alleges that on August 31, 2023, Respondent Cooper continued to give inaccurate information regarding the motives and work of the ad hoc committee and the resolution adopted by the Board proposed by the ad hoc committee, in violation of *N.J.S.A.* 18A:12-24.1(c) and *N.J.S.A.* 18A:12-24.1(g).

B. *Written Statements and Allegations of Frivolous Filing*

In their Written Statement and allegation of frivolous filing, Respondents Cooper, Cusato, Fenarjian, Parrino, Pedersen and Price assert that Counts 1 through 9 are time barred. Additionally, Respondents generally argue that their statements at the various meetings and on social media represent their opinions and do not violate the Act. Respondents contend that Complainant's beliefs that the ad hoc committee failed to accurately represent its purpose and presented inaccurate reports are his "subjective belief that the report was not sufficient." Additionally, Complainant's "disagreement with specific Board members['] votes on a topic" does not amount to an ethical violation. Finally, Respondents assert that the Complaint is frivolous, and that Complainant should be sanctioned, because he "has used this forum as a guise to turn against specific Board members who do not align with either the majority of the Board's views on various topics and/or the views of the teachers' union."

In his Written Statement and allegation of frivolous filing, with respect to the Counts alleging violations against him, Respondent Pontillo asserts Counts 1, 3, 8 and 9 are time barred. Nevertheless, Respondent Pontillo asserts, as to Counts 1, 3, 8 and generally throughout the Complaint where violations of *N.J.S.A.* 18A:12-24.1(g) were alleged, that his statements represent opinions on what should and should not be taught in schools and are based on what discussions can or cannot take place in a classroom as a result of the lesson plan. Respondent Pontillo asserts that expressing an opinion cannot be the basis of a violation of *N.J.S.A.* 18A:12-24.1(g). With respect to Count 9, Respondent Pontillo asserts that the Board President has the right to form an ad hoc committee and that the formation of the committee cannot be the basis for an ethics violation. As to Count 10, Respondent Pontillo argues that because he has authority as Board President to form the committee, it does not have to be on the agenda for a vote. Further Respondent Pontillo denies he kept information from the public. With respect to Count 17, Respondent Pontillo denies that voting in favor of the resolution is a violation of the ethics rules. Respondent Pontillo asserts that the resolution was a statement to the NJDOE regarding the Board's position on the health education standards, but the Board did not take any action to change the curriculum or state that they would ignore the current requirements. Instead, it was an aspirational request to change the New Jersey Student Learning Standards. As to Count 18, Respondent Pontillo notes that Complainant admits that they received community input on the work of the ad hoc committee both in favor of and against the committee. As a result, a claim that the Board did not take into account those affected by the Board's policies and plans is incorrect. With respect to Count 19, Respondent Pontillo states that the harshness of the language in the resolution and the fact that they did not take a survey of the community prior to adopting the resolution is immaterial, as they are empowered to use their own judgment and there is no requirement to survey the community prior to any particular action of the Board. Finally,

Respondent Pontillo asserted that the filings are frivolous and requests sanctions against Complainant.

C. *Response to Allegation of Frivolous Filing*

Complainant asserts that “[i]t should be clear” that the Complaint was filed in good faith as almost 200 teachers signed off on it. Additionally, Complainant defends the timeliness of the Complaint, asserting that he was not concerned with the false statements made in 2022 because the Board approved the curriculum; however, these statements became relevant after the 2023 election when several Respondents were either elected or appointed to open seats and the curriculum returned to the agenda, making the false statements relevant again.

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. *Alleged Untimeliness*

Respondents argue that the allegations in Counts 1 through 9 were untimely filed, and are therefore time barred. Complainant contends that he was not concerned with the false statements made in 2022, as the Board approved the health education curriculum, but that the statements became relevant after the 2023 election, when several Respondents joined the Board and raised the curriculum again.

The Commission’s regulations provide a one hundred eighty (180) day limitation period for filing a complaint. More specifically, *N.J.A.C. 6A:28-6.5(a)* provides, in relevant part:

- (a) Complaints shall be filed within 180 days of notice *of the events which form the basis of the alleged violation(s)*. A complainant shall be deemed to be notified of events that form the basis of the alleged violation(s) *when the complainant knew of the events, or when such events were made public so that one using reasonable diligence would know or should have known* (emphasis added).

With the above in mind, and pursuant to *N.J.A.C. 6A:28-6.5(a)*, the Commission must determine when Complainant knew of the events which form the basis of the Complaint, or when such events were made public so that one using reasonable diligence would know, or should have known, of such events.

The Commission recognizes that limitation periods of this type serve to discourage dilatoriness and provide a measure of repose in the conduct of school affairs. *Kaprow v. Berkley Township Bd. of Educ.*, 131 N.J. 571, 587 (1993). Thus, “notice of the alleged violation” must be interpreted in a manner that anticipates the reasonable diligence of complainant(s). In addressing potential violations of the Act, the Commission must balance the public’s interest in knowing of potential violations against the important policy of repose and a respondent’s right to fairness. The time limitations set forth in the regulations must be enforced if the Commission is to operate in a fair and consistent manner. *Phillips v. Streckenbein et al., Edgewater Park Bd. of Educ., Burlington County*, C19-03 (June 24, 2003).

In this case, Complainant filed his Complaint on September 28, 2023, and one hundred eighty (180) days prior to that date is April 1, 2023. The events at issue in Counts 1 through 9 occurred prior to that date. The allegations in Counts 1 through 9 stem from statements that were made at Board meetings, committee meetings, or posted on social media ranging from August 25, 2022 through March 20, 2023.

After review, the Commission finds that there is not a credible basis upon which to find that Complainant was unaware of Respondent’s actions/conduct until a date(s) other than when they occurred. Although the Commission recognizes that the regulatory time period may be relaxed, in its discretion, in any case where strict adherence may be deemed inappropriate or unnecessary or may result in injustice, it does not find extraordinary circumstances in the within matter that would compel relaxation. Critical to the Commission’s determination was that the conduct either occurred at a Board or committee meeting, or on a public Facebook page, and as such Complainant was aware of the conduct on the day it occurred, as it was public knowledge. Moreover, Complainant does not allege that he learned of the events at a later date, but rather argues that he did not find them relevant until after the 2023 Board election. The Commission finds that Respondent was aware of the statements at the time they were made, and despite his knowledge of the events that occurred prior to April 1, 2023, Complainant waited until September 28, 2023, to initiate the above-captioned matter. Consequently, the stated violations of the Act set forth in Counts 1 through 9 are time barred, and therefore, dismissed.

Alleged Violations of the Act

Complainant submits that, based on the conduct more fully detailed above, Respondents violated *N.J.S.A.* 18A:12-24.1(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(g), and *N.J.S.A.* 18A:12-24.1(i). 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.

c. I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

g. I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

i. I will support and protect school personnel in proper performance of their duties.

N.J.S.A. 18A:12-24.1(b)
(Count 12, Count 14 and Count 17)

In Counts 12, 14, and 17, Complainants assert that Respondent Cusato violated *N.J.S.A. 18A:12-24.1(b)* when he posted on Facebook regarding an opt-out for lessons involving two moms and two dads; Respondent Parrino violated *N.J.S.A. 18A:12-24.1(b)* when he falsely indicated that the ad hoc committee did not have “pre-formed plans or recommendations” and is not “anti-LGBTQIA+”; and that Respondents violated *N.J.S.A. 18A:12-24.1(b)* when they voted in favor of a resolution requesting that the NJDOE reconsider the health standards.

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(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.

After review, the Commission finds that there are insufficient facts and circumstances presented in the Complaint and the Written Statements to lead a reasonable person to believe that *N.J.S.A. 18A:12-24.1(b)* was violated. The Commission finds Respondent Cusato’s Facebook post in favor of an opt-out was not a “decision” contrary to the educational welfare of children or “deliberate action” to obstruct the programs and policies designed to meet the individual needs of all children; rather, it was his opinion on a controversial matter. Additionally, Respondent Parrino’s statement that the ad hoc committee is not “anti-LGBTQIA+” is objectively not a statement that would obstruct the needs of all children, and it is Complainant’s opinion that the statement is false. Finally, Board members are permitted to vote and pass resolutions, and it has not been established that by passing the resolution, the Board altered the curriculum or made a decision contrary to the educational needs of all children. 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)* in Counts 12, 14 and 17.

N.J.S.A. 18A:12-24.1(c)
(Counts 10, 16, 17, 18, 19, and 20)

In Counts 10, 16, 17, 18, 19, and 20, Complainant contends that Respondents violated *N.J.S.A. 18A:12-24.1(c)* when Respondent Pontillo refused to place the ad hoc committee on the agenda; when Respondents failed to adequately inform the public about the work of the ad hoc committee in its first report; when Respondents voted in favor of a resolution requesting that the NJDOE reconsider its health standards; when they discussed the resolution after its passage;

when they considered two districts as models for the resolution but used “significantly more harsh” language; and when Respondent Cooper continued to give inaccurate information regarding the work of the ad hoc committee.

In accordance with *N.J.A.C.* 6A:28-6.4(a), factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(c) shall include evidence that Respondents took board action to effectuate policies and plans without consulting those affected by such policies and plans, or took action that was unrelated to Respondents’ duty to (i) develop the general rules and principles that guide the management of the school district or charter school; (ii) formulate the programs and methods to effectuate the goals of the school district or charter school; or (iii) ascertain the value or liability of a policy.

Following its assessment, the Commission finds that there are insufficient facts and circumstances presented in the Complaint and the Written Statements to lead a reasonable person to believe that *N.J.S.A.* 18A:12-24.1(c) was violated. With respect to the ad hoc committee, the Commission finds Complainant has not established, beyond his opinion, that Respondents provided inaccurate information about the work of the committee. Additionally, Complainant has not demonstrated how, by participating in an ad hoc committee, Respondents effectuated policies or plans without consulting those affected by such policies and plans. As to the passage of the resolution, the discussion following the passage of the resolution, and the consideration of other districts in the drafting of the resolution, the Commission finds that Respondents were within their rights as Board members to vote for the resolution, and Complainant has not established that the resolution effectuated policies or plans without consulting those affected by such policies and plans. 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:12-24.1(c) in Counts 10, 16, 17, 18, 19, and 20.

***N.J.S.A.* 18A:12-24.1(g)
(Counts 10, 14, 15, 16, 17, 18, 19 and 20)**

In Counts 10, 14, 15, 16, 17, 18, 19 and 20, Complainant alleges that Respondents violated *N.J.S.A.* 18A:12-24.1(g) when Respondent Pontillo refused to place the ad hoc committee on the agenda; when Respondent Parrino falsely stated that the ad hoc committee does not have “pre-formed plans or recommendations”; when Respondent Price made a false statement that the health curriculum has “moved down from high school to middle school and now to elementary school”; when Respondent Parrino failed to truthfully report the work of the ad hoc committee; when Respondents voted in favor of a resolution; when Respondents discussed the resolution after its passage, demonstrating it was based on false statements; when Respondents considered other districts prior to the passage of the resolution; and when Respondent Cooper continued to give inaccurate information regarding the motives of the ad hoc committee.

In accordance with *N.J.A.C.* 6A:28-6.4(a), factual evidence of a violation of the inaccurate information provision of *N.J.S.A.* 18A:12-24.1(g) shall include evidence that substantiates the inaccuracy of the information provided by Respondents and evidence that establishes that the inaccuracy was other than reasonable mistake or personal opinion or was not attributable to developing circumstances.

Based on its review, the Commission finds that there are insufficient facts and circumstances presented in the Complaint and the Written Statements to lead a reasonable person to believe that the inaccurate information provision of *N.J.S.A. 18A:12-24.1(g)* was violated. As to the ad hoc committee, the Commission finds that the Complaint lacks evidence, beyond Complainant's opinion, that Respondents provided inaccurate information to the public about the work of the ad hoc committee. As to Respondent Price's statement regarding the curriculum moving down to the elementary school, the Commission notes that such statement is her view or interpretation of the reach of health education. Finally, regarding the passage of the resolution and the allegation that it was based on false statements, the Commission finds that Board members are permitted to draft and publicly vote on resolutions. Even if Respondents used harsh language or believed some inaccurate information when they placed their votes, they are still permitted to vote in accordance with their beliefs. 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(g)* in Counts 10, 14, 15, 16, 17, 18, 19 and 20.

N.J.S.A. 18A:12-24.1(i)
(Counts 11 and 13)

In Counts 11 and 13, Complainant asserts that Respondents Cooper, Cusato, Pedersen, and Fenarjian violated *N.J.S.A. 18A:12-24.1(i)* when they refused to apologize for false accusations made about teachers, and Respondents Cooper and Pedersen violated *N.J.S.A. 18A:12-24.1(i)* when they again failed to apologize for their false statements.

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(i)* shall include evidence that Respondents took deliberate action which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties.

Following its assessment, the Commission finds that there are insufficient facts and circumstances presented in the Complaint and the Written Statements to lead a reasonable person to believe that *N.J.S.A. 18A:12-24.1(i)* was violated. Complainant has failed to demonstrate how the failure to issue an apology for a statement undermines, opposes, compromises or harms school personnel. Even if Respondents' original statements undermined school personnel, which is not alleged here, the failure to issue an apology does not. 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(i)* in Counts 11 and 13.

IV. Request for Sanctions

At its meeting on March 26, 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' arguments, 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 Respondents that Counts 1 through 9 were untimely filed, there are insufficient facts and circumstances pled in the Complaint and in the Written Statements to lead a reasonable person to believe that the Act was violated as alleged in the Complaint and, consequently, the Commission 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' requests 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.

Robert W. Bender, Chairperson

Mailing Date: April 30, 2024

***Resolution Adopting Decision
in Connection with C75-23***

Whereas, at its meetings on March 26, 2024, and April 30, 2024, the School Ethics Commission (Commission) considered the Complaint, the Written Statements and allegations of frivolous filing, and the response to the allegations 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 the allegations in Counts 1 through 9 were untimely filed; and

Whereas, at its meetings on March 26, 2024, and April 30, 2024, the Commission discussed finding that the remaining facts and circumstances presented in the Complaint and the Written Statements 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 requests 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.

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.

Brigid C. Martens, Director
School Ethics Commission