

Before the School Ethics Commission
OAL Docket No.: EEC-07158-24
SEC Docket No.: C90-23
Final Decision (Settlement)

**Danuta “Donna” Carey,
Complainant**

v.

**Nicholas Demsak,
Hardyston Township Board of Education, Sussex County,
Respondent**

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on December 19, 2023,¹ by Danuta “Donna” Carey (Complainant), alleging that Nicholas Demsak (Respondent), a member of the Hardyston 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:12-24.1(a) (Counts 3, 4 and 7), *N.J.S.A.* 18A:12-24.1(d) (Counts 4 and 5), *N.J.S.A.* 18A:12-24.1(e) (Counts 1 through 5, and Count 7), *N.J.S.A.* 18A:12-24.1(f) (Counts 1 through 3), *N.J.S.A.* 18A:12-24.1(g) (Counts 6 and 7), and *N.J.S.A.* 18A:12-24.1(i) (Count 4) of the Code of Ethics for School Board Members (Code).

At its meeting on, May 21, 2024, and after reviewing the Complaint and the Written Statement, the Commission adopted a decision finding probable cause for the alleged violations of *N.J.S.A.* 18A:12-24.1(e) and *N.J.S.A.* 18A:12-24.1(g) in Count 7, but not finding probable cause for the remaining violations alleged in the Complaint. Based on its decision, the Commission also voted to transmit the matter to the Office of Administrative Law (OAL), where Complainant would carry the burden to prove that Respondent violated the cited provisions of the Code.

At the OAL, the parties agreed to amicably resolve the matter and, on or about October 9, 2024, the parties filed a fully executed settlement agreement. The Administrative Law Judge (ALJ) issued an Initial Decision (Settlement) on October 10, 2024, which concluded that the settlement agreement met the requirements of *N.J.A.C.* 1:1-19.1 and should be approved.

At its meeting on November 26, 2024, the Commission reviewed the Initial Decision (Settlement), and at its meeting on December 17, 2024, the Commission voted to adopt the Initial

¹ On December 8, 2023, Complainant filed a deficient Complaint; however, on December 19, 2023, 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.

Decision (Settlement) as its Final Decision. However, the Commission also voted not to take a position on the enforceability of the parties' written settlement agreement.

II. Analysis

In their fully executed settlement agreement, the parties set forth the terms of their settlement. More specifically, the parties agreed, in relevant part, that neither party admits fault, liability or wrongdoing; Respondent agrees that he will "refrain from using Photoshop or any similar image-editing software to alter images of school property in any context related to campaigning or campaign literature, public communications related to Board matters as a Board [m]ember, or on social media platforms as a Board [m]ember related to Board business"; the parties agree not to make any statements that disparage or are likely to harm the reputation of the other related to this matter; Complainant agrees to voluntarily dismiss the Complaint; the parties waive any further claims they may have against the other; and the settlement agreement constitutes the entire understanding relating to the dispute referenced herein. *Initial Decision (Settlement)* (attachment).

After reviewing the terms of the parties' settlement agreement, the ALJ found:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

[*Initial Decision (Settlement)* at 2.]

Having concluded that the parties' settlement agreement met the requirements of *N.J.A.C.* 1:1-19.1 and should be approved, the ALJ ordered that the parties comply with the settlement terms. *Id.*

III. Decision

Following its review, the Commission does not find a reason why it should not defer to the parties' mutual decision to amicably resolve their dispute. The Commission adopts the *Initial Decision (Settlement)* as its Final Decision, but does not take a position on the enforceability of the parties' written settlement agreement.

Consequently, the above-captioned matter is hereby dismissed.

Robert W. Bender, Chairperson

Mailing Date: December 17, 2024

***Resolution Adopting Final Decision (Settlement)
in Connection with C90-23***

Whereas, at its meeting on May 21, 2024, the School Ethics Commission (Commission) voted to transmit the above-captioned matter to the Office of Administrative Law (OAL) for a hearing; and

Whereas, while at the OAL, the parties submitted a duly executed settlement agreement to the Administrative Law Judge (ALJ) for review; and

Whereas, the ALJ issued an Initial Decision on October 10, 2024, concluding that the settlement met the requirements of *N.J.A.C. 1:1-19.1* and should be approved; and

Whereas, at its meeting on November 26, 2024, the Commission considered the Initial Decision and discussed adopting the Initial Decision as its Final Decision, but not taking a position on the enforceability of the parties' written settlement agreement, and dismissing the matter; and

Whereas, at its meeting on December 17, 2024, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on November 26, 2024; and

Now Therefore Be It Resolved, the Commission hereby adopts the within decision as its Final Decision, and directs its staff to notify all parties to this action of its decision herein.

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its regularly scheduled meeting on December 17, 2024.

Brigid C. Martens, Director
School Ethics Commission