

***Before the School Ethics Commission***  
***OAL Docket No.: EEC-07466-22***  
***SEC Docket No.: C96-21***  
***Final Decision***

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***In the Matter of Fahim Abedrabbo,***  
***Clifton Board of Education, Passaic 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 December 22, 2021,<sup>1</sup> by Judith Bassford (Complainant), alleging that Fahim Abedrabbo (Respondent), a member of the Clifton 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(b) (Counts 1-2, and Count 4), as well as *N.J.S.A.* 18A:12-24.1(a) (Counts 1-2, and Count 4), *N.J.S.A.* 18A:12-24.1(b) (Count 1), *N.J.S.A.* 18A:12-24.1(c) (Counts 1-4), *N.J.S.A.* 18A:12-24.1(d) (Counts 1-2), *N.J.S.A.* 18A:12-24.1(e) (Counts 1-4), *N.J.S.A.* 18A:12-24.1(f) (Counts 1-2), *N.J.S.A.* 18A:12-24.1(g) (Count 1), and *N.J.S.A.* 18A:12-24.1(i) (Count 1) of the Code of Ethics for School Board Members (Code).

At its meeting on May 24, 2022, and after reviewing Respondent’s Motion to Dismiss in Lieu of an Answer (Motion to Dismiss) and allegation of frivolous filing, as well as Complainant’s response thereto, the Commission adopted a decision finding that the allegations related to Project Graduation in Count 1 were timely filed, but those facts/allegations provided as “background” and to set “the tone” for the balance of the Complaint are time barred; granting the Motion to Dismiss as to the alleged violations of *N.J.S.A.* 18A:12-24.1(a) (Counts 1-2, and Count 4), and as to Count 3 (in its entirety); and denying the Motion to Dismiss as to all other allegations in Counts 1-2 and Count 4. The Commission also adopted a decision finding the Complaint not frivolous, denying Respondent’s request for sanctions, and directing Respondent to file an Answer to Complaint (Answer). On June 13, 2022, Respondent filed an Answer.

Thereafter, at its meeting on August 23, 2022, the Commission voted to find no probable cause for the allegations in Count 4, but to find probable cause for the allegations in Counts 1-2. Based on its finding of probable cause, the Commission voted to transmit the within matter to the Office of Administrative Law (OAL) for a hearing. After transmittal, the parties agreed that the only issues in this matter are those set forth in Count 2.

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<sup>1</sup> On December 22, 2021, Complainant filed a deficient Complaint; however, on January 7, 2022, 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.

Following cross-motions for summary decision at the OAL, the Administrative Law Judge (ALJ) issued an Initial Decision on April 25, 2024, concluding that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f), and dismissing the matter. Petitioner filed exceptions to the Initial Decision, in accordance with *N.J.A.C.* 1:1-18.4, and Respondent filed a reply thereto.

At its special meeting on June 17, 2024, the Commission discussed the above-captioned matter, and at its meeting on July 23, 2024, the Commission voted to adopt the Initial Decision's findings of fact, the legal conclusions that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f), and the dismissal of the above-captioned matter.

## **II. Initial Decision**

The Palestinian American Community Center (PACC) is a “community organization that provides cultural, education[al], and recreational activities for members of the community, regardless of their background or faith (much like the YMCA or the JCC).” (Initial Decision at 3). Respondent's involvement with the PACC stems from the PACC allowing him to use their facilities when he was sworn in to the Board during the COVID-19 pandemic. *Ibid.* Additionally, Respondent moderated the 2021 Board of Education Candidate Forum at the PACC on October 19, 2021, and introduced himself as a “community member within the PACC.” *Ibid.* Respondent handed out flyers for the forum to other Board members during an executive session, and also sent a picture of the flyer to Board members by text message. *Ibid.* Moreover, Respondent volunteered for the PACC's toy drive, and his child attended an art class at the PACC. *Ibid.*

The PACC submitted requests to use Clifton School District (District) facilities on August 5, October 21, and November 18, 2021. *Id.* at 4. Respondent voted to approve the PACC's facilities use request on August 5, 2021. *Ibid.* Thereafter, after consulting with counsel, Respondent abstained from the vote on the October 21, 2021, facilities use request, which occurred just two days after the PACC's candidate forum. *Ibid.* However “upon further advice from the Board's counsel, who concluded that [Respondent] did not have a conflict of interest in voting on facility use requests from the PACC,” Respondent voted in favor of the PACC's facility use request on November 18, 2021. *Ibid.*

Respondent maintains he is not a member of the PACC. *Ibid.* The President of the PACC certified that the “PACC is not a membership-based organization,” and the only “members” of the PACC are the 14-17 members of the board of directors. The PACC also has a “limited number of employees” who assist with various programs. *Id.* at 3.

The ALJ determined that Respondent submitted certifications to support that although he has had a relationship with the PACC, he was not a “member” of the PACC at the time the Board voted on the facilities usage, and he did not use his Board position “to secure unwarranted privileges” for “others” in violation of *N.J.S.A.* 18A:12-24(b); therefore, the ALJ granted summary decision in favor of Respondent. *Id.* at 10. According to the ALJ, while the facts do not show that Respondent was an “actual member” of the PACC, the probable cause notice “may be fairly read to nonetheless question whether he violated *N.J.S.A.* 18A:12-24(b) due to his

*connections with PACC.” Id. at 13 (emphasis added). The ALJ found that the question is whether, through his various admitted relationships and volunteer roles with the PACC, Respondent “secured an unwarranted privilege for himself or the PACC with respect to his votes approving the PACC’s facility use requests.” Ibid. The ALJ noted that “[a]ny organization may submit a request to use district facilities, which will be voted on” and “[i]t’s within Respondent’s position as a Board member to vote on these district facilities use request forms.” Id. at 14. Here, “[t]here is no evidence that the PACC received any benefit that any other organization that submits a facilities use request form would [not] have received, making the benefit it received the same benefit available to the general public.” Ibid. Therefore, the ALJ found that the facts do not support the allegation “that Respondent secured an unwarranted privilege for himself, his family, or others and there was no evidence that Respondent accrued a gain that is greater than that of any other member of the business, profession, occupation, or group.” Id. at 15. The ALJ concluded that Respondent did not violate *N.J.S.A.* 18A:12-24(b) when he voted to approve the PACC’s facilities requests. *Ibid.**

As to a violation of *N.J.S.A.* 18A:12-24.1(c), the ALJ found that Petitioner did not submit any evidence to demonstrate that Respondent took official action without consulting the rest of the Board, took action unrelated to his duties, knew about the PACC’s request prior to it being presented to the Board, played any part in submitting the PACC’s facility use request and/or lobbied in any way for the PACC to be able to use the District’s facilities. *Id.* at 17. According to the ALJ, the only evidence is Respondent’s vote and that he is “connected” to the PACC. *Ibid.* Therefore, the ALJ found that this does not substantiate a violation of *N.J.S.A.* 18A:12-24.1(c). *Ibid.*

Regarding a violation of *N.J.S.A.* 18A:12-24.1(e), the ALJ found that Petitioner did not establish that Respondent “made personal promises to the PACC for his voting to approve their facilities use request.” *Id.* at 19. Moreover, Petitioner has not provided any evidence to show that Respondent took any action beyond the scope of his duties that had the potential to compromise the Board. *Ibid.* The ALJ reiterated that “[b]eyond the fact that Respondent has some kind of relationship with the PACC, albeit not one of a membership, Petitioner fails to provide sufficient evidence to demonstrate that Respondent . . . has taken private action beyond the scope of his duties,” and as such, determined that a violation of *N.J.S.A.* 18A:12-24.1(e) has not been established. *Id.* at 20.

Finally, as to a violation of *N.J.S.A.* 18A:12-24.1(f), the ALJ found that Petitioner has not proven that Respondent voted to approve the facilities request “at the behest of the PACC,” or that the PACC’s relationship to Respondent was so strong that he would be considered as “acquir[ing] some benefit” for Respondent’s friends. *Id.* at 21. According to the ALJ, although the PACC received the benefit of being able to use the District’s facilities, Petitioner did not provide any evidence to demonstrate that Respondent was acting on behalf of the PACC when he voted, and a violation of *N.J.S.A.* 18A:12-24.1(f) has not been demonstrated. *Id.* at 21-22.

Accordingly, the ALJ granted Respondent’s motion for summary decision, denied Petitioner’s motion for summary decision, and dismissed the Complaint.

### III. Exceptions

#### *Petitioner's Exceptions*

Petitioner argues the ALJ “incorrectly determined that finding [Respondent] in violation of the Act or Code would exceed the scope of the probable cause notice in this matter.” Petitioner further argues that the Commission’s probable cause notice did not state that Respondent “must” be a member of the PACC in order to substantiate violations of the Act and/or Code. Petitioner notes the “threshold” for determining whether probable cause exists, is among other things, “an initial review.” According to Petitioner, the probable cause notice does not include language to “exclude the possibility, as the ALJ contends, that [Respondent’s] votes could violate the Act and Code if he was ‘a community member of the PACC,’ but not a member of the organization’s board of directors,” and the finding should be based on whether Respondent’s votes were a violation because of “his close connections to the PACC as a member of that organization, ‘community’ or otherwise.”

Petitioner contends that it provided an “abundance” of evidence to prove that Respondent violated the Act and the Code. More specifically, and as to a violation of *N.J.S.A.* 18A:12-24(b), Petitioner maintains the ALJ “incorrectly rejected the appearance of impropriety standard that this Commission has routinely applied . . . and instead required a showing that [Respondent] actually secured an unwarranted privilege for the PACC.” Petitioner further maintains that it only needs to show that a Board member “voted on an issue involving an organization that he was closely and publicly involved with.” However, the ALJ “based his legal conclusion on the fact that ‘[a]ny organization may submit a request to use district facilities, which will then be voted on’ by the Board members, and, therefore, because the Board unanimously voted to approve the group of event facilities requests which included the PACC applications,” the ALJ concluded there was not any evidence to show that the PACC received any benefit. Petitioner maintains the ALJ is incorrect because “an abundance of evidence” was provided to demonstrate that Respondent has a “close and public engagement with the PACC” and whether Respondent is a member of the PACC is “inconsequential” to determining a violation of the Act, because his close, personal relationship required him not to vote.

Regarding the violations of the Code, Petitioner argues that the ALJ “incorrectly rejected the appearance of impropriety standard that the Commission has routinely applied when finding violations of the Code.” First, as to a violation of *N.J.S.A.* 18A:12-24.1(c), Petitioner maintains the “record clearly shows” that Respondent “never consulted with the rest of the Board before acting in his official capacity to vote on the Board resolutions that would approve the Board facilities requests for an organization with which he was closely and publicly involved.” Further, whether Respondent “played any role in submitting the PACC’s” request or “lobbied the other Board members to approve the PACC’s request” is “immaterial to finding whether” Respondent’s votes to approve the PACC’s request violated *N.J.S.A.* 18A:12-24.1(c).

As to a violation of *N.J.S.A.* 18A:12-24.1(e), Petitioner maintains again the ALJ’s findings should be rejected because the Commission “has consistently found that a board member will engage in private actions that have the potential to compromise the Board in

violation of *N.J.S.A.* 18A:12-24.1(e), whenever they act on a matter that could reasonably be expected to impair their objectivity” as Respondent has done here.

Regarding a violation of *N.J.S.A.* 18A:12-24.1(f), Petitioner contends that enough evidence has been provided to show that the “PACC’s relationship to [Respondent] was more than casual or collegial” and “based on the public representations about” Respondent’s connection to the PACC, “it would be reasonable for the public to infer that by his involvement in the Board’s votes on matters regarding the PACC,” Respondent was “using his position to vote on matters that would acquire a benefit for his friends.”

With the above in mind, Petitioner asserts that a penalty of censure is warranted.

### ***Respondent’s Reply to Petitioner’s Exceptions***

Respondent maintains that the ALJ’s decision is “fully supported by the record and the law.” According to Respondent, the Commission found probable cause to credit the allegations in Count 2 of the Complaint and issued a probable cause notice informing Respondent of its findings. Respondent notes that in both findings, the Commission advised that in order to find a violation of *N.J.S.A.* 18A:12-24(b) and/or the Code, Petitioner must show that Respondent was a member of the PACC. Per Respondent, Petitioner attempts to negate the ALJ’s finding that Respondent was not a member of the PACC, by only showing that he “reasonably appeared to be a member of the PACC” or “created a justifiable impression amongst the public that their trust was being violated” when Respondent voted on the facility use. Respondent argues that “Petitioner is doubling down on the arguments made before the ALJ, by ignoring the Commission’s findings . . . and in doing so changed their entire meaning.” Respondent further argues Petitioner’s “brief is an attempt to mislead the Commission by encouraging it to take, as a given, that Respondent is a PACC member, and that the only issue to be determined is whether he ‘involved himself’ in the votes at issue.” Therefore, the ALJ correctly determined that it was necessary to prove that Respondent was a member of the PACC and took action on behalf of the PACC, and Petitioner failed to prove same.

Respondent notes that although “not necessary or even germane to” the decision, the ALJ “addressed Petitioner’s claim that it need only prove Respondent [appeared to a reasonable person] to be a member of the PACC notwithstanding that Petitioner did not present any evidence to address the key qualifications to this ‘reasonable person’ standard.” Respondent maintains that his activities, namely donating toys to the PACC, and volunteering to pack food, to name a few, would not lead a reasonable person to believe that he is a member of the PACC. Moreover, Respondent’s text messages and swearing in at the PACC, also would not lead a reasonable person to believe that he is a member of the PACC.

Respondent asserts the ALJ correctly found that Petitioner did not provide any evidence to support that Respondent took action without consulting the rest of the Board, that Respondent knew about the PACC’s request prior to it being submitted to the Board for a vote, or that Respondent played any part in submitting the PACC’s request; therefore, the ALJ accurately concluded that Respondent did not violate *N.J.S.A.* 18A:12-24.1(c). Respondent contends that the ALJ also correctly found that Petitioner did not provide any evidence to support a violation

of *N.J.S.A.* 18A:12-24.1(e). Respondent notes the ALJ found that Respondent was not aware that the PACC was requesting to use the District's facilities, and further found that Respondent did not take any action beyond the scope of his duties. As to a violation of *N.J.S.A.* 18A:12-24.1(f), Respondent argues that Petitioner did not provide any evidence to demonstrate that Respondent voted to approve the PACC's request to use the District's facilities at the "behest of the PACC, or that he took action on behalf of the PACC."

In sum, Respondent asserts the ALJ "closely scrutinized the allegations" in the Complaint and Petitioner failed to provide any evidence to support the allegations in the Complaint.

#### **IV. Analysis**

Upon a thorough, careful, and independent review of the record, the Commission adopts the ALJ's factual findings, the legal conclusions that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f), and the dismissal of this matter.

*N.J.S.A.* 18A:12-24(b) prohibits board members from using or attempting to use their official position to secure an unwarranted privilege, advantage, or employment for themselves, members of their immediate family, or others. The Commission finds that regardless of whether Respondent is a formal "member" of the PACC, it is evident that he has a relationship and/or involvement with the PACC based on his use of the PACC facilities for his personal swearing in ceremony, the moderating of a candidate forum held at the PACC, and his participation in volunteer events at the PACC. Given this conflict of interest, the Commission notes that Respondent should not have voted on any matter involving the PACC, including facilities use requests. However, in this circumstance, and in reviewing the specific elements required to prove a violation of *N.J.S.A.* 18A:12-24(b), the Commission finds the evidence fails to demonstrate that Respondent used or attempted to use his official position to secure an *unwarranted* privilege or advantage for himself or the PACC. As the ALJ pointed out, any organization can submit facilities use requests that are routinely approved by the Board, and as such, the approval of the PACC's facilities use requests on August 5 and November 18, 2021, was not an attempt to secure an unwarranted privilege or advantage that the PACC would not otherwise have been entitled to receive. Additionally, while the Commission recognizes that reliance on the advice of counsel is not a defense to a violation of the Act or Code, but rather serves only to mitigate a penalty, the Commission nevertheless notes that Respondent did not vote on the PACC's facilities use request on October 21, 2021, two days after he moderated the candidate forum at the PACC, and he voted on the facility request on November 18, 2021, only after Board counsel concluded that he did not have a conflict of interest related to the PACC's facility use request. Accordingly, given the unique circumstances present in this matter, the Commission finds that a violation of *N.J.S.A.* 18A:12-24(b) has not been established.

Pursuant to *N.J.S.A.* 18A:12-24.1(c), board members must confine board action to "policy making, planning, and appraisal" and "frame policies and plans only after the board has consulted those who will be affected by them." The Commission agrees with the ALJ that Petitioner has not submitted evidence that Respondent took official action to effectuate policies or plans without consulting those affected by the plans. As the ALJ explained, Respondent did

not play any part in submitting the facilities use request, nor was he aware of it until it appeared on the agenda, but rather only voted on the request at two Board meetings. While the Commission has indicated that Respondent should not have voted on the facilities use requests, such votes do not violate *N.J.S.A.* 18A:12-24.1(c).

Pursuant to *N.J.S.A.* 18A:12-24.1(e), a board member must recognize that authority rests with the board and a board member shall not make any personal promises or take any action that may compromise the board. Petitioner has not provided any evidence demonstrating that Respondent made a personal promise to the PACC, that his votes on the facilities use requests – actions taken in his role as a Board member – were beyond the scope of his duties, or that they had the potential to compromise the Board. As such, the Commission finds a violation of *N.J.S.A.* 18A:12-24.1(e) has not been established.

*N.J.S.A.* 18A:12-24.1(f) prohibits Board members from surrendering their judgment to special interest or partisan political groups or using the schools for personal gain or for the gain of friends. As the ALJ found, Petitioner has not provided proof that Respondent voted to approve the PACC’s facilities use request “at the behest” of the PACC, or that Respondent took action on behalf of the PACC. Further, in this circumstance, Respondent’s votes to approve the PACC’s facilities use requests do not rise to the level of “using the schools” to acquire a benefit for friends. As such, the Commission does not find a violation of *N.J.S.A.* 18A:12-24.1(f).

Accordingly, the Commission agrees with the ALJ that this matter should be dismissed.

#### **IV. Decision**

Upon review, the Commission adopts the Initial Decision’s findings of fact, the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f), and the dismissal of the above-captioned matter.

Therefore, this is a final agency decision and is appealable only to the Superior Court-Appellate Division. *See, N.J.A.C.* 6A:28-9.10(b) and *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: July 23, 2024

**Resolution Adopting Decision  
in Connection with C96-21**

**Whereas**, at its meeting on August 23, 2022, the School Ethics Commission (Commission) voted to transmit the above-captioned matter to the Office of Administrative Law (OAL) for a hearing; and

**Whereas**, the Administrative Law Judge (ALJ) issued an Initial Decision dated April 25, 2024; and

**Whereas**, in the Initial Decision, the ALJ found that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f), and ordered the dismissal of the above-captioned matter; and

**Whereas**, Petitioner filed exceptions to the Initial Decision and Respondent filed a reply; and

**Whereas**, at its special meeting on June 17, 2024, the Commission reviewed and discussed the record, including the ALJ's Initial Decision; and

**Whereas**, at its special meeting on June 17, 2024, the Commission discussed adopting the Initial Decision's findings of fact, the legal conclusions that Respondent did not violate *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f), and the dismissal of the above-captioned matter; and

**Whereas**, at its meeting on July 23, 2024, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its special meeting on June 17, 2024; and

**Now Therefore Be It Resolved**, the Commission hereby adopts the within decision.

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Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its meeting on July 23, 2024.

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Brigid C. Martens, Director  
School Ethics Commission