

Before the School Ethics Commission
OAL Docket No.: EEC-08960-23
SEC Docket No.: C125-22
Final Decision

**In the Matter of Kathleen Amster,
Marlboro Township Board of Education, Monmouth County,
Respondent**

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on December 23, 2022,¹ by Leonard Thor (Complainant), alleging that Kathleen Amster (Respondent), a member of the Marlboro 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(a) in Count 1, *N.J.S.A.* 18A:12-24(d) in Count 2, *N.J.S.A.* 18A:12-24(g) in Count 3, as well as *N.J.S.A.* 18A:12-24.1(i) of the Code of Ethics for School Board Members (Code) in Count 4.

At its meeting on August 22, 2023, the Commission adopted a decision finding probable cause for the alleged violation of *N.J.S.A.* 18A:12-24(d) in Count 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.

At the OAL, Petitioner filed a motion for summary decision dated December 18, 2024, that was received by the OAL on December 26, 2024. Respondent filed a cross motion for summary decision dated December 19, 2024, a response to Petitioner's motion for summary decision was dated January 17, 2025, and a reply dated January 28, 2025. On January 17, 2025, Petitioner filed its opposition to Respondent's motion, and the record was closed on January 28, 2025. Thereafter, the ALJ issued an Initial Decision on March 5, 2025.

At its meeting on May 20, 2025, the Commission reviewed the Initial Decision, and at its meeting on June 17, 2025, the Commission voted to adopt the Initial Decision's findings of fact, the legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(d), and the recommended penalty of reprimand.

II. Initial Decision

The ALJ made the following findings of fact based on the joint stipulation of facts and joint exhibits:

¹ On December 23, 2022, Complainant filed a deficient Complaint; however, on December 28, 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.

1. Respondent. was a member of the Marlboro Board of Education (Board) from January 2019 through July 27, 2023.
2. On July 27, 2023, Respondent resigned from her position as a member of the Board.
3. While Respondent was on the Board, she served as chair of the special education committee.
4. As the chairperson of the special education committee, Respondent was responsible for serving as a liaison between the Board and the Marlboro Special Education Department. The Marlboro Special Education Parental Advisory Group (SEPAG) was established in winter 2018. In winter 2018, Respondent also co-founded and joined the Marlboro SEPAG.
5. Respondent co-founded Marlboro SEPAG with two other parents, Sarah Harris-Chrysler and Donna Riopel. As a co-founder and co-leader of Marlboro SEPAG, Respondent was responsible for sending the zoom links for meetings. Respondent also served as a resource and support for fellow parents with students with disabilities.
6. As a co-founder and co-leader of Marlboro SEPAG, Respondent shared ideas regarding outside resources.
7. Respondent's service as co-leader of the Marlboro SEPAG ended in January 2023. She is no longer a member of SEPAG.

Initial Decision at 2-3.

Petitioner asserts that Respondent's independence of judgment was compromised through her memberships on the Board, SEPAG, and as the Board's special education committee chair, in violation of N.J.S.A. 18A:12-24(d).² *Id.* at 4. Petitioner further asserts that the Commission also asserted that Respondent's advocacy for families of student with special needs compromised her independence of judgment as a Board member, because she "routinely blurred the line" by wearing different hats in the same meeting between SEPAG and the Marlboro School District's Child Study Team. *Ibid.* Moreover, the Superintendent expressed concerns to Respondent regarding her service on SEPAG. For support, Petitioner notes *Advisory Opinion A03-23* (A03-23), in which the Commission advised, among other things, that "it would be a conflict of interest for a board member to also be a member of the SEPAG because the public may view your role as an advocate . . . to be in substantia; conflict with your duties and responsibilities as a Board member." Because there are no undisputed facts, Petitioner argues a motion for summary decision is warranted and is entitled to prevail as a matter of law.

² As an initial matter, the Commission found probable cause to credit the allegation that Respondent violated N.J.S.A. 18A:12-24(d), providing that a "violation may be established if the complainant could prove that the respondent's membership in SEPAG prejudiced her judgment in the exercise of her duties as the Board's special education committee chair, such as through setting the agenda while guided by the interests of the SEPAG." *Id.* at 6.

Respondent argues that her role on SEPAG did not conflict with her duties as a Board member or with the interests of the Board. Respondent further argues A03-23 is “factually distinguishable from the instant case,” because contrary to the subject board member in A03-23, the evidence in this matter “merely shows that SEPAG was invited to a child study team meeting for the purpose of introducing themselves to the staff” and there is not any evidence to demonstrate that Respondent “participated in any IEP meetings or advocated on behalf of a student or family to add or remove any related services, modifications, or accommodation(s)” such as the board member in A03-23. Furthermore, according to Respondent, Complainant did not provide any evidence to demonstrate that she took any action or voted on any Board agenda item as a Board member that impacted SEPAG. Respondent insists that a conflict did not exist nor was there a competing interest in her role in SEPAG or being a Board member and special education committee member. Finally, Respondent asserts that she is no longer a member of the Board and thus all counts should be dismissed.

After reviewing the parties’ submissions, the ALJ concluded that under the Brill standards, the matter is appropriate for summary decision. Further, the ALJ found “the facts, as set forth jointly by the parties, are supported by tangible, undisputed evidence, and there does not appear to be any dispute of the material facts on the record, as both parties have moved for summary decision.” *Id.* at 5.

The ALJ first noted that the issue in this matter is whether Respondent violated the School Ethics Act by having simultaneous memberships in three organizations. The ALJ found that Respondent’s roles “require interaction with staff and the administrators on behalf of students and families, acting as a liaison between parents, students, and the administration, participating in meetings, and no doubt advocating or sharing concerns with district staff and administrators.” *Id.* at 7. In particular, the ALJ found “that membership in SEPAG is akin to membership in the PTA/PTO or Special Education Parent Discussion Group (SPED) as discussed in the Commission’s Advisory Opinion A16-04 [(A16-04)].” *Ibid.* In A16-04, the Commission advised that the subject board member did not have a conflict of interest by serving as the co-facilitator of SPED.

Noting that “board members are appointed by the board president to various committees typically based upon the individual board member’s interest and the needs of the board[,]” the ALJ found “that dual membership in SEPAG and the Board *per se* would not reasonably be expected to prejudice Respondent’s independence of judgment in the exercise of her official duties as a board member.” *Id.* at 8. However, the ALJ found that Petitioner provided evidence that demonstrates Respondent was “advocating on behalf of special education students and their families. Specifically, the ALJ found exhibit P-6 as “troublesome,” which is an email that Respondent sent from her Board email account to the SEPAG members informing them that she “intended to attend the upcoming meeting as a co-leader of SEPAG and not as a board member.” *Ibid.* Although Respondent “avows that she participated in SEPAG in her personal capacity as a parent,” the ALJ noted the email was sent from Respondent’s Board account and failing to send it from her personal email account could be viewed by the public as a compromise of her roles. *Ibid.* Therefore, the ALJ found that Respondent’s use of her official board member email blurred

the line between her role as a board member and as a co-leader of the SEPAG and could create a justifiable impression that the public trust was being violated.

The ALJ ultimately concluded that Respondent used her official board member email to send a message to the SEPAG about attending a meeting in violation of *N.J.S.A.* 18A:12-24(d). According to the ALJ, although Respondent was permitted to be a member of the various organizations as a parent/Board member, “she failed to be vigilant in maintaining appropriate boundaries.” *Id.* at 9. Therefore, the ALJ also concluded that a reprimand is appropriate.

III. Exceptions

Respondent’s Exceptions

Respondent initially argues that the ALJ went beyond the scope of the probable cause notice and omitted any discussion on whether Respondent actually set agendas guided by the SEPAG and instead misapplied a violation to Respondent’s use of her Board email. Respondent maintains that the probable cause notice in Count 2 provided, “If Complainant can prove that Respondent’s membership in SEPAG prejudiced Respondent’s judgment in the exercise of her duties as the Board’s special education committee chair, such as through setting the agenda while guided by the interest of SEPAG, a violation of *N.J.S.A.* 18A:12-24(d) may be established.” According to Respondent, the ALJ found an email that Respondent sent to SEPAG “troublesome” because according to the ALJ, Respondent used her Board email account to notify the SEPAG that she planned to attend a meeting as “co-leader of SEPAG and not as a board member.” However, Respondent notes her email “consciously and conspicuously noted that she was not attending a specific meeting in her capacity as a Board member.” Moreover, the email did not contain the Board’s views or Board business. Respondent notes that although she could have used her SEPAG email account, the email from her Board account included “a clear disclaimer.” Nevertheless, Respondent further notes her email was not “the allegation in the Complaint,” but rather the allegation specifically required an analysis on whether Respondent’s membership in the SEPAG prejudiced her judgment in the exercise of her official duties as the Board’s special education committee chairperson, which was not addressed by the ALJ. Respondent maintains the ALJ focused on Respondent’s use of her Board email account, noting that any correspondence related to the SEPAG should have been done using her personal email account, and therefore, failing to use her personal account could be viewed by the public as a compromise of her roles.

As to the ALJ’s recommended penalty of reprimand, Respondent argues her actions of using her Board email are not as egregious as those cases cited by the ALJ, and therefore, Respondent notes she should not receive a penalty. Respondent maintains she “clearly noted that she was attending an event or meeting as a member of the SEPAG and not in her role as a Board member.” Further, Respondent asserts she “never set agendas nor was she guided by SEPAG in her role as a Board member.” Therefore, Respondent requests that the Commission reject the ALJ’s recommendation.

Petitioner's Exceptions

Petitioner notes the ALJ found that Respondent violated *N.J.S.A. 18A:12-24(d)* when she used her Board email address to inform the SEPAG members that she would be attending an upcoming meeting as a co-leader of the SEPAG and not as a Board member; however, Petitioner argues the appropriate penalty should be a censure. Petitioner further notes that the November 22, 2022, email from Respondent and her SEPAG co-founder to the Superintendent and the Director of Special Education, requesting a meeting to discuss concerns with the District's Special Services Department, demonstrates that the SEPAG sought a meeting with administration because the SEPAG had concerns that may become "district-wide issues that require administrative attention." Petitioner contends, the SEPAG was advocating on behalf of individuals with concerns regarding the Special Services Department. Petitioner further contends Respondent "routinely switched roles as member of the [Board], chair of the [special education committee], and co-leader of SEPAG, many times at the same meetings." Moreover, Petitioner notes that the Superintendent also expressed concerns regarding Respondent's conduct and sent an email to her noting his ethical concerns regarding her dual role as Board member and the SEPAG advocate.

Petitioner maintains the only facts that the ALJ found were the facts that the parties stipulated to, and the ALJ did not consider the supplementary undisputed evidence offered by the Commission, and further did not make any findings of fact with respect to the additional evidence. Petitioner further maintains although the ALJ correctly determined that Respondent violated *N.J.S.A. 18A:12-24(d)*, she erred in the issuance of a reprimand. Petitioner argues that Respondent "repeatedly advocated for the needs of special needs students and their parents," "repeatedly blurred the lines between her impartial, neutral role as a [B]oard member and her advocacy on SEPAG," and therefore, her "brazen violations of the Act justify a penalty of censure.

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 violated *N.J.S.A. 18A:12-24(d)*, and the recommended penalty of reprimand.

N.J.S.A. 18A:12-24(d) prohibits school officials from undertaking any employment or service, whether compensated or not, which might reasonably be expected to prejudice her independence of judgment in the exercise of her official duties.

The Commission agrees with the ALJ's determination and finds that being a member or leader of the SEPAG, much like a PTA, is not a per-se conflict under the Act, specifically *N.J.S.A. 18A:12-24(d)*.

The Commission also agrees with the ALJ's conclusion that Respondent violated *N.J.S.A. 18A:12-24(d)* when she used her official board member email to send a message to the SEPAG about attending a meeting. While it is not a violation for Respondent to be a member of the

SEPAG, as a Board member, she should have taken extra steps to ensure that her position would not be compromised or affected by said membership.

The Commission does not find Respondent's exceptions to be persuasive. Contrary to Respondent's contention that she "clearly noted that she was attending an event or meeting as a member of SEPAG and not in her role as a Board member," the Commission agrees that sending the email from her Board account is prohibited and "creates a justifiable impression that objectivity or independence has been impaired." Moreover, Respondent's argument that she is no longer on the Board, and therefore, the matter should be dismissed is of no consequence. She was a Board member when the behavior occurred and when the Complaint was filed.

Further, the Commission agrees with the ALJ that a reprimand is the appropriate penalty for Respondent's violation of *N.J.S.A.* 18A:12-24(d). While Respondent's communication was inappropriate and compromised the Board, the ALJ only found one correspondence where Respondent sent the email from her Board account, and therefore, the conduct was not ongoing.

IV. Decision

For all of the aforementioned reasons, the Commission adopts the Initial Decision's findings of fact, the legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(d), and the recommended penalty of reprimand.

Pursuant to *N.J.S.A.* 18A:12-29(c), this decision shall be forwarded to the Commissioner of Education for review of the Commission's recommended penalty. The parties may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's finding of a violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of a violation.

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of a violation may file, **within thirteen (13) days** from the date the Commission's decision is forwarded to the Commissioner, written exceptions regarding the recommended penalty to the Commissioner. The forwarding date shall be the mailing date to the parties, as indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Office of Controversies and Disputes, P.O. Box 500, Trenton, New Jersey 08625, marked "Attention: Comments on Ethics Commission Sanction," as well as to (ControversiesDisputesFilings@doe.nj.gov). A copy must also be sent to the Commission (school.ethics@doe.nj.gov) and all other parties.

Parties seeking to appeal the Commission's finding of violation *must* file an appeal pursuant to the standards set forth at *N.J.A.C.* 6A:4:1 *et seq.* **within thirty (30) days** of the filing date of the decision from which the appeal is taken. The filing date shall be three (3) days after the date of mailing to the parties, as shown below. In such cases, the Commissioner's review of the Commission's recommended sanction will be deferred and incorporated into the Commissioner's review of the finding of violation on appeal. Where a notice of appeal has been filed on or before the due date for exceptions to the Commission's recommended sanction

(thirteen (13) days from the date the decision is mailed by the Commission), exceptions need not be filed by that date, but may be incorporated into the appellant's briefs on appeal.

Robert W. Bender, Chairperson

Mailing Date: June 17, 2025

***Resolution Adopting Decision
in Connection with C125-22***

Whereas, at its meeting on August 22, 2023, 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 March 5, 2025; finding a violation of *N.J.S.A.* 18A:12-24(d) and recommending a penalty of reprimand; and

Whereas, both Petitioner and Respondent filed exceptions to the Initial Decision; and

Whereas, at its meeting on May 20, 2025, the Commission reviewed the record in this matter, and discussed adopting the Initial Decision's findings of fact, the legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(d), and the recommended penalty of reprimand; and

Whereas, at its meeting on June 17, 2025, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on May 20, 2025; and

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

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its meeting on June 17, 2025.

Dana C. Jones
School Ethics Commission