

Before the School Ethics Commission
Docket No.: C64-24
Decision on Probable Cause

Jack Brangan, Diane Carr, Constance Lee Ditzel, and Pnina Mintz.
Complainants

v.

Benjamin Rood, Miriam Stern, and Joel Mayer,
Cherry Hill Board of Education, Camden County,
Respondents

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on August 21, 2024,¹ by Jack Brangan, Diane Carr, Constance Lee Ditzel, and Pnina Mintz (Complainants), alleging that Benjamin Rood, Miriam Stern, and Joel Mayer (Respondents), members of the Cherry Hill 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), *N.J.S.A.* 18A:12-24.1(c), and *N.J.S.A.* 18A:12-24.1(f) of the Code of Ethics for School Board Members (Code). Respondents filed a Written Statement on October 1, 2024, and also alleged that the Complaint is frivolous. On October 22, 2024, Complainants filed a response to the allegation of frivolous filing.

The parties were notified by correspondence dated May 13, 2025, that the above-captioned matter would be discussed by the Commission at its meeting on May 20, 2025, in order to make a determination regarding probable cause and the allegation of frivolous filing. Following its discussion on May 20, 2025, the Commission adopted a decision at its meeting on June 17, 2025, 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 Respondents' request for sanctions.

¹ On August 13, 2024, Complainants filed a deficient Complaint; however, on August 21, 2024, Complainants 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.

II. Summary of the Pleadings

A. *The Complaint*

By way of background, Complainants assert that at the Board meeting on April 9, 2024, Respondents “berated” the community members who offered public comment. More specifically, at the April 9 meeting, Complainants “questioned policy and curriculum” regarding “the safety of women with biological males in their private spaces (restrooms and locker rooms) and of women on the athletic field.” According to Complainants, Respondent Rood publicly “scolded parents and community members,” stating among other things, that those parents “ask us to take away their [LGBTQ students’] voice [sic], shut down their ability to communicate...those things are dangerous. Those are talking points of right-wing extremists, white Nationalists and modern-day Nazis.” Respondent Rood also stated, “That’s the kind of speech that leads to domestic terrorism . . . Domestic terrorism and the perpetration of acts of violence against a group of specific individuals.”

With the above in mind, and in Count 1, Complainants assert Respondent Rood violated *N.J.S.A. 18A:12-24.1(b)* because his actions do not align with his strong stance on ensuring student safety, as he has stated at meetings, and he is not concerned about the safety of all students, including biological females, but rather only transgender students; and violated *N.J.S.A. 18A:12-24.1(f)* because he “does not leave his politics at the door” and labeled parents as “right wing extremists, white Nationalists and modern-day Nazis.” Complainants maintain these labels indicate his “unwillingness to take [their] concerns seriously.”

In Count 2, Complainants contend that Respondents Stern and Mayer agreed with Respondent Rood, and further contend that their “political beliefs cloud their ability to approach the situation objectively, intimidation [(sic)] and humiliating prospective speakers to the podium.” Complainants assert their behavior violates *N.J.S.A. 18A:12-24.1(f)*.

In Count 3, Complainants maintain that they sent an email to the Board on April 29, 2024, requesting, “[a] full Board vote condemning the dangerous statements made by [Respondent] Rood, and a full Board vote condemning the statement made by [Respondent] Stern and [Respondent] Mayer in support of [Respondent] Rood.” Per Complainants, the email “was ignored.” During the April 30 meeting, Complainants spoke during public comment asking for an “apology for the April 9 comments,” but Respondent Rood “doubled down and said [their] concerns for student safety were ‘fear mongering, hate speech...unacceptable...[they] are attacking students.’” Complainants further maintain that the student representative joined in on the verbal attack calling Complainants “transphobic.” Complainants contend Respondent Rood violated *N.J.S.A. 18A:12-24.1(b)* because “the toxic effects of name-calling, as it is now being modeled and adopted by a student board representative” does not “serve the educational welfare of children or meet their needs” and violated *N.J.S.A. 18A:12-24.1(c)* because Respondent Rood’s “tirade” was not “confined to ‘policy making, planning, and appraisal’” and his “words were intended to insult, embarrass, and denigrate parents.”

B. Written Statement and Allegation of Frivolous Filing

In their Written Statement, Respondents note that Respondent Rood's comments did not name or identify anyone, including Complainants. Respondents also note that "there is no allegation that [Complainants] have ever been deprived of the opportunity to speak or that they have not been permitted to share their views with the Board. What they apparently object to is someone disagreeing with them."

As to Count 1, Respondents argue that Complainants "have failed to provide any evidence that [Respondent] Rood 'willfully made a decision contrary to the education welfare of children, or ... that [he] took deliberate action to obstruct' any program or policy." According to Respondents, Complainants' contention that Respondent Rood "somehow made a decision that was contrary to the well-being of the children of Cherry Hill[.]" simply because he finds "comments denigrating transgender students" unacceptable, is "nonsensical." Respondents further argue that Respondent Rood specifically stated, "he wanted to be inclusive and supportive of all students." Moreover, as to the violation of *N.J.S.A. 18A:12-24.1(b)*, Respondents assert that Complainants did not provide any "factual allegations, which if proven true, suggest commentary about a very real problem of hate speech as attacks on marginalized groups constituted a decision contrary to the educational welfare of the children or obstructed any existing programs or policies." As to a violation of *N.J.S.A. 18A:12-24.1(f)*, Respondents contend that Complainants "fail to make any connection to [Respondent] Rood surrendering his 'independent judgment to special interest or partisan political groups ...'" Per Respondents, the fact that Complainants "do not feel as if they are being listened to" or their "disagreement with [Respondent Rood] on policy" do not mean that he has surrendered his independent judgment. Moreover, Respondents further contend that Complainants have not provided any facts to support that Respondent Rood was "aligned with any special interest or political group and took action on their behalf" nor that he "used the schools for some personal, familial or friend-based benefit."

As to Count 2, and Respondents Stern and Mayer, Respondents maintain that "other than their impression that their concerns are not being taken seriously by Board leadership," Complainants do not provide any evidence or facts to demonstrate that Respondents Stern and Mayer took any action on behalf of, or at the request of, anyone in violation of *N.J.S.A. 18A:12-24.1(f)*. Respondents argue that they merely expressed their concerns and thoughts and Complainants did not provide any facts to support that Respondents "took any action whatsoever at the behest of a particular special interest group."

Regarding Count 3, Respondents argue that Complainants' allegation that Respondent Rood's beliefs about unnamed members of the public and their comments "somehow made a decision that was contrary to the well-being" of the students, is "wholly without merits." Respondents further argue that a Board member's public statement is not a decision contrary to the educational welfare of students (*N.J.S.A. 18A:12-24.1(b)*). Respondents maintain that although Complainants may not like "the fact that Respondents stood up for the rights of transgender students, their disagreement with a Board member's opinion does not create an ethics violation." Furthermore, Respondents maintain they are permitted to speak out about a controversial matter that impacts students, while they are at a Board meeting. Respondents

further maintain that public commentary is not Board action, a policy or plan was not effectuated simply by Board members expressing their concerns about a “vulnerable student population,” and Complainants’ grievance with Respondents’ statement “does not transform it into a ‘policy or plan’ for the district or any private action by [] Respondents, as any change to the Board’s policies could only be done through a full Board vote.”

Finally, Respondents assert the Complaint is frivolous because “it does not have a factual basis for any of the alleged violations.” Further, “its gratuitous inflammatory language, going so far as to call civilized discussion of sensitive topics ‘berat[ing],’ a ‘rant’ an ‘attack’ or an attempt to ‘intimidate or humiliate’ when the actual words uttered were nothing of the sort demonstrates that it was filed in bad faith to attack a public servant who refused to capitulate to the Complainant[s]’ demands regarding transgender students.” Respondents further assert Complainants are “weapon[izing]” the Act to file a Complaint against Board members who defend “an unpopular action” that should not be tolerated.

C. Response to Allegation of Frivolous Filing

Complainants argue they did not file this Complaint because they disagree with the views of Respondents, but rather because the Board did not allow them an opportunity to discuss the policy and dismissed their concerns. Complainants maintain Respondents’ “hate speech and slander toward parents/community members” is evidence that the Complaint is not frivolous and calling it so, “makes a mockery of the field of ethics, federal laws, responsibilities of [Board] members and decent human communication modeled before children under 18.”

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.”

Alleged Violations of the Act

Complainants submits that Respondents violated *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(f)* and 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.

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.

Pursuant to *N.J.A.C.* 6A:28-6.4(a), a violation(s) of *N.J.S.A.* 18A:12-24.1(b), *N.J.S.A.* 18A:12-24.1(c), and/or *N.J.S.A.* 18A:12-24.1(f) need to be supported by certain factual evidence, more specifically:

2. 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.

3. 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.

6. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(f) shall include evidence that Respondents 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 Respondents used the schools in order to acquire some benefit for themselves, a member of their immediate family or a friend.

Count 1

In Count 1, Complainants assert Respondent Rood violated *N.J.S.A.* 18A:12-24.1(b) and *N.J.S.A.* 18A:12-24.1(f) when he made comments that implied that he was not concerned about the safety of all students and made negative remarks about the supposed political affiliations of parents with opposing views. Respondent Rood argues that he specifically stated, "he wanted to be inclusive and supportive of all students."

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(b) and/or *N.J.S.A.* 18A:12-24.1(f) were violated in Count 1. As to *N.J.S.A.* 18A:12-24.1(b), while Complainants may disagree with Respondent Rood's comments about themselves, and transgender students in general, Complainants have not shown how his

comments constitute evidence that he willfully made a decision contrary to the educational welfare of children, or constitute evidence that he 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. Further, although Respondent Rood's comments or beliefs might be similar to certain special interest groups or persons organized and voluntarily united in opinion and who adhere to a particular political party or cause, this does not mean that Respondent Rood's comments were made on behalf of, or at the request of any such group, and as such, Complainants have not demonstrated that Respondent Rood surrendered his independent judgment as required by *N.J.S.A. 18A:12-24.1(f)*.

Count 2

In Count 2, Complainants assert Respondents Stern and Mayer violated *N.J.S.A. 18A:12-24.1(f)* when they agreed with Respondent Rood as their "political beliefs cloud[ed] their ability to approach the situation objectively, intimidation [(sic)] and humiliating prospective speakers to the podium." Respondents argue that they merely expressed their concerns and thoughts and Complainants did not provide any facts to support that Respondents took any action on behalf of, or at the request of anyone.

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:12-24.1(f)* was violated in Count 2. The Commission notes that board members might naturally have similar beliefs as one another but on its own, that does not demonstrate that the individual or individuals took action, on behalf of, or at the request of, Respondent Rood, or any group, and as such, Complainants have not demonstrated that Respondents Stern and Mayer surrendered their independent judgment. Accordingly, and pursuant to *N.J.A.C. 6A:28-9.7(b)*, the Commission dismisses the alleged violation of *N.J.S.A. 18A:12-24.1(f)* in Count 2.

Count 3

In Count 3, Complainants contend Respondent Rood violated *N.J.S.A. 18A:12-24.1(b)* and *N.J.S.A. 18A:12-24.1(c)* when he refused to apologize to Complainants and, instead, made negative comments about them during a public meeting. Respondents argue that they are permitted to speak out about a controversial matter that impacts students while they are at a Board meeting.

Following its assessment, 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(b)* and/or *N.J.S.A. 18A:12-24.1(c)* were violated in Count 3. Complainants have not shown evidence of how Respondent Rood's comments show that he willfully made a decision contrary to the educational welfare of children. Complainants have also not shown how Respondent Rood's comments constituted 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 as required by *N.J.S.A. 18A:12-24.1(b)*. Additionally, Complainants have not provided any evidence to demonstrate that Respondent Rood's refusal to

apologize and public comments were board action to effectuate policies and plans without consulting those affected by such policies and plans, or took action that was unrelated to Respondent's 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 as required to support a violation of *N.J.S.A. 18A:12-24.1(c)*. Therefore, and pursuant to *N.J.A.C. 6A:28-9.7(b)*, the Commission dismisses the alleged violations of *N.J.S.A. 18A:12-24.1(b)* and/or *N.J.S.A. 18A:12-24.1(c)* in Count 3.

IV. Request for Sanctions

At its meeting on May 20, 2025, 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' argument, the Commission cannot find evidence that might show that Complainants 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 Complainants 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 June 17, 2025, 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 Complainants and Respondents 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 Respondents' 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.

Robert W. Bender, Chairperson

Mailing Date: June 17, 2025

***Resolution Adopting Decision
in Connection with C64-24***

Whereas, at its meeting on May 20, 2025, 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 meeting on May 20, 2025, 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 meeting on May 20, 2025, the Commission discussed finding the Complaint not frivolous, and denying the request for sanctions; 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, 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 June 17, 2025.

Dana C. Jones
School Ethics Commission