

**SCHOOL ETHICS COMMISSION MEETING
PUBLIC SESSION MINUTES**

NOVEMBER 25, 2014

Robert Bender called the meeting to order at 9:30 a.m.

Notice of the meeting was provided to the State House Press Corps and the Secretary of State and filed as required by the Open Public Meetings Act. In attendance were Commission members Frank Digesere, Mark Finkelstein, Dan Kaplan, Louis Modugno, Ellen Polaner and Chairperson Robert Bender. Commission member Dennis Roberts arrived at 9:36.

Acting Executive Director Joanne Restivo, Legal Assistant Jill Kail, Legal Specialist Jesse Landon, Administrative Assistant Karin Molnar, Deputies Attorney General Geoffrey Stark, Donna Arons and Frederick Wu were also in attendance. Deputy Attorney General Chris Huber participated briefly via telephone.

9:35 a.m. Motion was made by Mark Finkelstein and seconded by Dan Kaplan to adjourn to Executive Session to discuss confidential matters and to obtain legal advice regarding the following complaints, advisory requests, and matters involving possible litigation: C08-14, C37-14, C38-14, C39-14, C40-14, C41-14, C42-14, C43-14, C45-14, C49-14, C35-13, C30-14, C31-14, C32-14, C25-14, C27-14, C35-14, C36-14, C21-14, C04-14, A45-14, A46-14, A47-14, A48-14, A49-14, A40-14, A41-14, A42-14, A42A-14, A43-14, A44-14, C26-13, C09-14 and Doctrines on Necessity filed by the Woodbridge, Kearny and Hammonton Boards of Education. Vote: 6 – Yes 0 - No

1:05 p.m. Return to Public Session.

Minutes Motion was made by Dennis Roberts and seconded by Frank Digesere to approve the Minutes of the October 28, 2014 Commission meeting. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

Complaints

C08-14 Motion was made by Louis Modugno and seconded by Dennis Roberts to table this matter and direct staff to write a letter to the complainant requiring that proof in support of the allegations made be submitted. Vote: 7 – Yes 0 - No

C37-14 Motion was made by Dan Kaplan and seconded by Frank Digesere to grant the motion to dismiss and find not frivolous. Vote: 7 – Yes 0 - No

C38-14 Motion was made by Dan Kaplan and seconded by Frank Digesere to grant the motion to dismiss and find not frivolous. Vote: 7 – Yes 0 - No

C39-14 Motion was made by Dan Kaplan and seconded by Frank Digesere to grant the motion to dismiss and find not frivolous. Vote: 7 – Yes 0 – No

C40-14 Motion was made by Dan Kaplan and seconded by Frank Digesere to grant the motion to dismiss and find not frivolous. Vote: 7 – Yes 0 – No

C41-14 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to grant the motion to dismiss. Vote: 7 – Yes 0 – No

C42-14 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to grant the motion to dismiss. Vote: 7 – Yes 0 – No

C43-14 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to grant the motion to dismiss. Vote: 7 – Yes 0 – No

C45-14 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to grant the motion to dismiss. Vote: 7 – Yes 0 – No

C49-14 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to grant the motion to dismiss and find not frivolous. Vote: 7 – Yes 0 – No

C35-13 Motion was made by Dennis Roberts and seconded by Dan Kaplan to adopt the initial decision of the Administrative Law Judge (ALJ) with modifications as discussed. Vote: 6 – Yes 0 – No 1 – Abstention (Mark Finkelstein abstained.)

C30-14 Motion was made by Ellen Polaner and seconded by Frank Digesere to adopt the decision as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

C31-14 Motion was made by Dennis Roberts and seconded by Ellen Polaner to adopt the decision as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

C32-14 Motion was made by Ellen Polaner and seconded by Dennis Roberts to adopt the decision as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

C25-14 Motion was made by Dennis Roberts and seconded by Ellen Polaner to vacate the October 28, 2014 finding of Probable Cause. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

C25-14 A second motion was made by Dennis Roberts and seconded by Ellen Polaner to dismiss for failure to state a claim upon which relief could be granted. Vote: 7 – Yes 0 – No

C27-14 Motion was made by Ellen Polaner and seconded by Frank Digesere to adopt the decision as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

C35-14 Motion was made by Dennis Roberts and seconded by Ellen Polaner to adopt the decision as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

C36-14 Motion was made by Dennis Roberts and seconded by Ellen Polaner to adopt the decision as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

C21-14 Motion was made by Frank Digesere and seconded by Dennis Roberts to adopt the decision as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

C04-14 Motion was made by Dennis Roberts and seconded by Frank Digesere to adopt the decision as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

Advisory Opinions

A45-14 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to advise as discussed. Vote: 7 – Yes 0 - No

A46-14 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to advise as discussed. Vote – 7 – Yes 0 - No

A47-14 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to decline to advise. Vote – 7 – Yes 0 - No

A48-14 Motion was made by Louis Modugno and seconded by Frank Digesere to decline to advise. Vote: 7 – Yes 0 - No

A49-14 Motion was made by Louis Modugno and seconded by Dennis Roberts to decline to advise. Vote: 7 – Yes 0 - No

A40-14 Motion was made by Frank Digesere and seconded by Dennis Roberts to adopt the opinion as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

A41-14 Motion was made by Frank Digesere and seconded by Dennis Roberts to adopt the opinion as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

A42-14 Motion was made by Ellen Polaner and seconded by Dennis Roberts to adopt the letter as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

A42A-14 Motion was made by Dennis Roberts and seconded by Frank Digesere to adopt the opinion as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

A43-14 Motion was made by Dennis Roberts and seconded by Frank Digesere to adopt the opinion as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

A43-14 A second motion was made by Dennis Roberts and seconded by Frank Digesere to make this opinion public. Vote: 7 – Yes 0 - No

A44-14 Motion was made by Dennis Roberts and seconded by Ellen Polaner to adopt the opinion as written. Vote: 4 – Yes 0 – No 3 – Abstentions (Mark Finkelstein, Dan Kaplan and Louis Modugno abstained.)

A44-14 A second motion was made by Dennis Roberts and seconded by Ellen Polaner to make this opinion public. Vote: 7 – Yes 0 - No

Other Business

C26-13 The Commission was briefed by Joanne Restivo on this matter, which was on the agenda for informational purposes only.

A34-14 Motion was made by Ellen Polaner and seconded by Mark Finkelstein to inform the requestor to follow the advice given by the Commission previously. Vote: 7 – Yes 0 - No

C09-14 Motion was made by Ellen Polaner and seconded by Mark Finkelstein to amend the Minutes of August 26, 2014 to reflect the change as discussed. The Minutes of August 26, 2014 will be amended to reflect the granting of a motion in C09-14 to dismiss Counts 1 and 2 of the complaint without prejudice for failure to correctly plead the allegations; to grant the complainant an opportunity to file an amended complaint within 20 days of the Decision during which the time will toll and to direct the respondents to file an Answer to Count 3 only within 20 days of this period if the complainant does not so amend. The Commission also directed the respondent to file an Answer to Counts 1, 2, and 3 within 20 days after the School Ethics Commission acknowledges receipt should the complainant amend his complaint as directed. Vote: 7 – Yes 0 – No

Personal/Relative and Financial Disclosure Process The Commission was briefed on this matter by Joanne Restivo and Jill Kail. There was discussion about changing the

Personal/Relative and Financial Disclosure requirements for school officials in 2015. DAG Stark expressed his belief that notice through the regulatory process was required for the proposed changes and gave his concerns about unilateral changes by the Commission. After discussion, a motion was made by Dennis Roberts and seconded by Mark Finkelstein to move forward in 2015 with no changes. Vote: 7 – Yes 0 - No

1:25 p.m. Motion was made by Dennis Roberts and seconded by Mark Finkelstein to adjourn. Vote: 7 – Yes 0 - No

Submitted by:

Karin L. Molnar

Approved by:

Joanne M. Restivo, Acting Executive Director

Minutes 11-25-14 Public