

SCHOOL ETHICS COMMISSION MEETING PUBLIC SESSION MINUTES

APRIL 26, 2016 (Modified June 21, 2016)

Robert Bender called the meeting to order at 9:34 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, Ellen Polaner, Dennis Roberts and Chairperson Robert Bender. Commission member Louis Modugno was absent.

Acting Executive Director Joanne Restivo, Legal Specialist Jesse Landon, Administrative Assistant Karin Molnar and Deputy Attorney General Donna Arons were also in attendance.

9:38 a.m. Motion was made by Ellen Polaner and seconded by Dennis Roberts 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: C35-15, C39-15, C01-16, C04-16, C06-16, C12-14, C05-16, C36-15, C41-15, C37-15, C09-14, A14-15, A12-16, A13-16, A14-16, A27-15, A05-16, A06-16, A09-16, A10-16, A11-16, Doctrines of Necessity filed by the Manchester Township, Vernon Township, Hasbrouck Heights and Passaic Boards of Education, C19-14, C16-13 and C22-13 (Consolidated), OFAC Letter concerning the Bridgeton Board of Education and T01-15 through T07-15. Vote: 6– Yes 0 – No

12:35 p.m. Open Session

12:36 p.m. Louis Modugno participated via telephone

Minutes

February 23, 2016 Minutes, Motion was made by Dennis Roberts and seconded by Mark Finkelstein to approve the Minutes of the February 23, 2016 meeting as written. Vote 4 – Yes 0 – No 3 Abstentions (Frank Digesere, Dan Kaplan and Ellen Polaner abstained.)

March 22, 2016 Minutes Motion was made by Dennis Roberts and seconded by Mark Finkelstein to adopt the Minutes of the March 22, 2016 meeting as written. Voted: 5 – Yes 0 – No 1 Abstention (Ellen Polaner abstained.)

12:38 p.m. Louis Modugno departed.

Complaints

C35-15 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to find probable cause as to N.J.S.A. 18A:12-24.1(f) in Count 1, N.J.S.A. 18A:12-24(b) in Count 2 and N.J.S.A. 18A:12-24(c) in Count 5; to dismiss Counts 3 and 4 entirely and transmit to the

Office of Administrative Law for a hearing to be held at a later date. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C35-15 A second motion was made by Dennis Roberts and seconded by Mark Finkelstein to adopt the written decision with edits. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C39-15 Motion was made by Frank Digesere and seconded by Mark Finkelstein to affirm the Commission’s vote of March 22, 2016 and transmit this matter to the Office of Administrative Law for a hearing to be held at a later date. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C39 -15 A second motion was made by Frank Digesere and seconded by Mark Finkelstein to adopt the written decision with edits. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C01-16 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to grant the motion to dismiss as to Counts 2 and 3, deny as the Counts 1 and 4 and direct staff to request additional information from the parties and for the Respondent to file an Answer on the remaining Counts. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C04-16 Motion was made by Dan Kaplan and seconded by Frank Digesere to grant the motion to dismiss and to find not frivolous. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C06-16 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to grant the motion to dismiss this matter. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.) **Vote vacated at the June 21, 2016 meeting.**

C12-14 Motion was made by Mark Finkelstein and seconded by Dennis Roberts to affirm the decision of the Administrative Law Judge (“ALJ”). Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C12-14 A second motion was made by Mark Finkelstein and seconded by Dennis Roberts to adopt the decision as written. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C05-16 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to adopt the decision as written. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C36-15 A second motion was made by Frank Digesere and seconded by Mark Finkelstein to adopt the decision as written. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C41-15 Motion was made by Dennis Roberts and seconded by Frank Digesere to adopt the decision with edits. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C37-15 Motion was made by Dan Kaplan and seconded by Frank Digesere to adopt the decision as written. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

C09-14 Motion was made by Mark Finkelstein and seconded by Frank Digesere to adopt the decision as written. Vote: 5 – Yes 0 – No 1 – Abstention (Ellen Polaner abstained.)

Advisory Opinions

A14-15 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to advise as discussed. Vote: 6 – Yes 0 – No

A12-16 Motion was made by Dan Kaplan and seconded by Mark Finkelstein to advise as discussed. Vote: 6 – Yes 0 – No

A13-16 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to advise as discussed. Vote: 6 – Yes 0 – No

A14-16 Motion was made by Frank Digesere and seconded by Mark Finkelstein to advise as discussed. Vote: 6 – Yes 0 – No

A27-15 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to advise as discussed. Vote: 6 – Yes 0 – No

A05-16 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to table this matter. Vote: 6 – Yes 0 – No

A06-16 Motion was made by Dennis Roberts and seconded by Mark Finkelstein to table this matter. Vote: 6 – Yes 0 – No

A09-16 Motion was made by Dan Kaplan and seconded by Mark Finkelstein to adopt this Opinion as written. Vote: 6 – Yes 0 – No

A10-16 Motion was made by Mark Finkelstein and seconded by Dennis Roberts to adopt this Opinion as written. Vote: 6 – Yes 0 – No

A11-16 Motion was made by Dan Kaplan and seconded by Frank Digesere to adopt this Opinion as written. Vote: 6 – Yes 0 – No

Other Business

Doctrines of Necessity Chairperson Bender acknowledged receipt of Doctrines submitted by the Manchester Township, Vernon Township, Hasbrouck Heights and Passaic Boards of Education. Chairperson Bender questioned the Passaic Boards Doctrine directed staff to have them submit a new Doctrine clarifying their conflicts.

Approval to Change the June 2016 Meeting to June 21, 2016. Motion was made by Mark Finkelstein and seconded by Frank Digesere to approve the Resolution with one edit. Vote: 6 – Yes 0- No

C16-13 and C22-13 (Consolidated). This matter was on the agenda for informational purposes only.

OFAC Letter Re: Bridgeton Board of Education This matter was on the agenda for informational purposes only.

Board Member Training Matters The Commission was informed by Joanne Restivo that the penalties imposed in the matters docketed as T01-15, T03-15, T04-15 and T07-15 were lowered from censures to reprimands by the Commissioner of Education. The Commissioner upheld the penalty of removal in the matters docketed as T02-15 and T05-15. The votes on these 2 matters went as follows:

T02-15 Motion was made by Dennis Roberts and seconded by Frank Digesere to adopt the Resolution of Removal. Vote: 6 – Yes 0 – No

T05-15 Motion was made by Dennis Roberts and seconded by Frank Digesere to adopt the Resolution of Removal. Vote: 6 – Yes 0 –No

T06-15 was on the agenda for information purposes only.

Chairperson Nominating Committee The Commission was briefed on this matter by Joanne Restivo. After discussion, a motion was made by Dennis Roberts and seconded by Mark Finkelstein to approve a subcommittee, consisting of Dennis Roberts, Mark Finkelstein and Frank Digesere, charged with the responsibility of putting forth a candidate to hold the position of Chairperson of the School Ethics Commission for the upcoming year. This Committee will report back to the full Commission at the next scheduled meeting with their nomination choice. Vote: 6 – Yes 0 - No

12:46 p.m. Motion was made by Mark Finkelstein and seconded by Dennis Roberts to adjourn. Vote: 6 – Yes 0 - No

Submitted by:

Karin L. Molnar

Approved by:

Joanne M. Restivo, Acting Executive Director