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<b>IN THE MATTER OF</b>	<b>BEFORE THE SCHOOL</b>
<b>STEPHEN PELLECCHIA</b>	<b>ETHICS COMMISSION</b>
<b>BERKELEY TOWNSHIP</b>	:
<b>BOARD OF EDUCATION</b>	<b>Docket No. C48-10</b>
<b>OCEAN TOWNSHIP</b>	<b>DECISION</b>
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## **PROCEDURAL HISTORY**

This matter arises from a complaint filed on December 20, 2010 by Patrick Riley and Dawn Parks against Stephen Pellecchia, a member of the Berkeley Township Board of Education (“Board”). By notice dated December 21, 2010, the complainants were advised that the complaint could not be accepted because it did not include the section(s) of the School Ethics Act (“Act”) claimed to be violated for each specific allegation, as required by N.J.A.C. 6A:28-6.3(b)5.

On January 13, 2011, the complainants submitted an amended complaint which did not conform to regulations. By notice dated January 18, 2011, they were advised that rather than identifying the section(s) of the Act claimed to be violated, the amended complaint merely included a copy of the entire “Conflicts of Interest” portion of the School Ethics Act. Therefore, this amendment was rejected. On January 31, 2011, the complainants submitted a second amended complaint which alleged only that the respondent violated N.J.S.A. 18A:12-22(a) and (b) of the Act. By notice dated February 1, 2011, the complainants were advised that N.J.S.A. 18A:12-22 is the provision of the Act which sets forth the Legislature’s findings and declarations and does not contain standards that are enforceable by the Commission. See, I/M/O Wesley Smith, C28-97 (April 28, 1998). Consequently, the second amendment was rejected.

On February 17, 2011, the complainants submitted a third amended complaint which included a new Statement of Facts, but failed to include updated certifications under oath for both complainants. By letter dated February 17, 2011, the complainants were so advised and were notified that the Commission would read the February 17, 2011 amended complaint to allege violations of N.J.S.A. 18A:12-24(a), (b), (c) and (d) of the School Ethics Act. The complainants were further advised that, in accordance with the Commission’s notice dated December 21, 2010, the first count in the complaint (with allegations dating back to May 2008) is untimely, pursuant to N.J.A.C. 6A:28-6.5 and would not be considered by the Commission. Finally, on March 9, 2011, the Commission received the appropriate certifications to accompany the third amended complaint (hereafter, “the complaint”).

On March 30, 2011, an answer was filed on behalf of the respondent, wherein he alleged that the complaint was frivolous. Although the complainants were accorded an opportunity to respond to the allegation of frivolousness, they did not submit a reply. The complainants and respondent were notified by letter dated April 19, 2011 that the Commission would review this matter at its meeting on May 24, 2011 in order to make a probable cause determination, in accordance with procedures set forth at N.J.A.C. 6A:28-10.7, as well as to consider the allegation of frivolousness. At its May 24, 2011 meeting, the Commission found probable cause to credit the allegation in the complaint that the respondent violated N.J.S.A. 18A:12-24(c), but dismissed

the remaining allegations. Additionally, the Commission found that the complaint was not frivolous, in accordance with the standard set forth at N.J.A.C. 6A:28-1.2. Finally, pursuant to its authority under N.J.A.C. 6A:28-1.6(a), the Commission voted to issue an Order to Show Cause (within the Probable Cause Notice) based on actions taken by the respondent that were not included in this complaint.

A Probable Cause Notice was issued to the complainants and the respondent on June 28, 2011. Pursuant to N.J.A.C. 6A:28-7.1(c)(1), because the respondent admitted the material facts in this matter, he was accorded 20 days to submit a statement setting forth the reasons he should not be found in violation of the Act, after which time the Commission would make a determination of violation on a summary basis. N.J.A.C. 6A:28-10.1(c)(1). Additionally, if the respondent disputed any of the facts determined by the Commission to be both material and undisputed, he was directed to set forth the facts with which he disagreed and why such facts were material to the case.

After obtaining an extension for good cause shown, a responsive statement was filed on July 29, 2011. The respondent does not challenge the facts set forth in the Commission's probable cause notice<sup>1</sup> or show cause order.<sup>2</sup> Rather, he argues that he has no direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment with respect to the discussions concerning, and the appointment of, Mr. Vicari to the position of Interim Superintendent so as to violate N.J.S.A. 18A:12-24(c). (Respondent's Statement at p. 3)

The respondent asserts that case law and statute well establish the independence of the Board of Elections from that of the Board of Chosen Freeholders of Ocean County. According to the respondent, the controlling statute, N.J.S.A. 19:6-17, provides that a County Board of Election shall hire a clerk and has the authority to appoint its employees. Indeed, the respondent contends that Monmouth County Board of Elections v. Monmouth County Board of Chosen Freeholders and Robert M. Czech, Monmouth County Administrator, decided April 29, 2009, clearly held that the Board of Elections is the sole appointing authority for its employees. (Id.) Respondent states, “[t]his decision clearly points out the purpose of having a County Board of elections is autonomous [sic] and a separate entity from the County Superintendent of Elections or any other county agency and was to insure that each office had independent operations

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<sup>1</sup> In its Probable Cause Notice, the Commission found the following facts to be admitted, or otherwise undisputed: (1) The respondent was at all relevant times a member of the Berkeley Township Board of Education; (2) Joseph Vicari was the Superintendent of Schools from approximately 2002 until June 30, 2009; (3) The respondent is a seasonal employee of the Election Board in Ocean County; (4) The respondent is the Chairperson of the Board's Personnel and Negotiations Committee; (5) During the respondent's tenure on the Board, the issue of whether Arleen Lippincott would be considered for the Superintendent's position arose; (6) The respondent was present when a discussion occurred as to whether Mr. Vicari should be brought back as Superintendent; (7) A meeting was arranged to discuss Mr. Vicari becoming the Superintendent of Schools, although the meeting was not set up by the respondent; (7) The respondent and other members of the Board advanced the name of Joseph Vicari to function as the Superintendent of Schools; (8) Mr. Vicari was appointed as the Superintendent of Schools on February 23, 2011 for the period April 1, 2011 through June 30, 2012 and his appointment saved the taxpayers considerable money.

<sup>2</sup> In its Order to Show Cause, the Commission found it was undisputed that on February 23, 2011, the respondent made the motion to appoint Mr. Vicari to the position of Interim Superintendent, then voted for his appointment.

pursuant to Title 19 of the New Jersey Statutes.” (Ibid.) The court further noted that the appointment to the Board of Elections will be bipartisan.

The respondent refers to correspondence from a Deputy Attorney General (DAG) on January 10, 2008 identifying the independent State employment status of County Board of Election staff. The respondent additionally relies on a letter dated February 23, 2011 from Michael Gross, Esq., opining that he did not see a conflict with the respondent voting to appoint Mr. Vicari, as well as a letter from John Sahradnik, Esq., underscoring the autonomous nature of the Board of Elections. (Id. at p. 4) The respondent also refers to correspondence from Betty Vasil, Clerk of the Board, Ocean County Board of Chosen Freeholders stating:

The Freeholders do not make appointments or set salaries and/or wages for employees of the Ocean County Board of Elections. All appointments and salaries are set by the Ocean County Election Commissioners. The purpose of the names of employees of the Board of Elections appearing on the Personnel Resolution is for processing of payroll only. (Letter from Betty Vasil, July 12, 2011).

Respondent argues that, “two legal opinions, case holdings, and the interpretation of statutory language implemented procedurally by the Ocean County Board of Chosen Freeholders demonstrate no direct or indirect financial involvement between Pellecchia and Vicari.” (Id. at p. 5)

## **FINDINGS OF FACT**

The following facts are deemed to be undisputed:

1. The respondent was at all relevant times a member of the Board.
2. The respondent is the Chairperson of the Personnel and Negotiations Committee. (Board Minutes, March 24, 2011 at p. 3)
3. Joseph Vicari was the Superintendent of Schools from approximately 2002 until June 30, 2009. (Answer at p. 3)
4. The respondent is a seasonal employee of the Election Board in Ocean County (Id.)
5. Joseph Vicari serves on the Board of Chosen Freeholders of the County of Ocean County. He was elected as the Director of the Board for the year 2011. (Minutes of the Board of Chosen Freeholders of Ocean County, January 5, 2011)
6. The Board of Chosen Freeholders of the County of Ocean adopted the following resolution in 2010:

The following employees \*\*\* are hereby given a temporary seasonal appointment to the position of Senior Voting Machine Technician, Election Board, effective April 5, 2010 through June 18, 2010 and September 30, 2010 through November 12, 2010, at an hourly wage of \$13.00:

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23. Stephen J. Pellecchia (Minutes of Board of Chosen Freeholders of Ocean County April 7, 2010 at p. 38).
7. Joseph Vicari abstained on Pellecchia's 2010 appointment. (Id. at 122)
8. Minutes from the January 2010 and 2011 organization meetings of the Board of Chosen Freeholders of the County of Ocean show appropriations for salaries, wages and other expenses for the Election Board. (Minutes of Board of Chosen Freeholders of Ocean County, January 6, 2010 at p. 26-28; January 5, 2011 at pp. 25-27)
9. Minutes from the March 16, 2011 meeting of the Board of Chosen Freeholders show a temporary emergency appropriation for the Election Board. (Minutes of Board of Chosen Freeholders of Ocean County, March 16, 2011 at p. 31)
10. The respondent's employee record shows his pay is issued by the "County of Ocean." (Answer at Exhibit F)
11. During the respondent's tenure on the Board, there arose the question of filling the Superintendent's position. The respondent was present when a discussion occurred as to whether Mr. Vicari should be brought back as Superintendent. (Answer at p. 2) A meeting was arranged to discuss Mr. Vicari becoming the Superintendent of Schools, although the meeting was not set up by the respondent. (Id. at p. 3). The respondent and other members of the Board advanced the name of Joseph Vicari to function as the Superintendent of Schools. (Id. at p. 4)
12. Mr. Vicari was appointed as the Superintendent of Schools on February 23, 2011 for the period April 1, 2011 through June 30, 2012 and his appointment saved the taxpayers considerable money. (Id. at p. 5; Board Minutes, February 23, 2011 at p. 2)
13. At the February 23, 2011 meeting, the respondent moved to appoint Mr. Vicari to the position of Interim Superintendent and voted in favor of the appointment. The minutes of February 23, 2011 state, in relevant part:

MOTION by Mr. Pellecchia, second by Mr. Grosse, and carried upon Roll Call Vote (5 Ayes, 1 Nay, 0 Abstains) that Mr. Joseph Vicari be appointed to the position of Interim Superintendent effective April 1, 2011 subject to the approval of the terms of the contract by the Executive County Superintendent. (Board Minutes, February 23, 2011 at p. 2)

14. According to Betty Vasil, Clerk of the Board, Ocean County Board of Chosen Freeholders, the Freeholders do not make appointments or set salaries and/or wages for employees of the Ocean County Board of Elections. All appointments and salaries are set by the Ocean County Election Commissioners. The purpose of the names of the employees of the Board of Elections appearing on the Personnel Resolution is for processing of payroll only. (Letter from Betty Vasil, July 12, 2011).
15. By letter dated May 1, 2009, John C. Sahradnik, Esq., provided an opinion to the Berkeley Board of Education stating, in relevant part, "The Board of Elections is a separate and distinct autonomous entity that functions independently from the Ocean County Board of Chosen Freeholders and has the power to hire and fire its own employees." (Respondent's Statement/Sahradnik Letter at p. 2)
16. By letter dated February 23, 2011, Michael J. Gross, Esq., provided an opinion to the Berkeley Board of Education concluding that, "Since the State of New Jersey, by statute and case law, have continually determined that County Board of Elections [sic] are State agencies, vested with authority independent of County government, there should be no conflict of interest to exclude Mr. Pellecchia from voting on the appointment of Mr. Vicari to the position of Interim Superintendent." (Respondent's Statement/Gross' Letter at p. 1)

## **ANALYSIS**

The Commission previously found probable cause to credit the allegation that the respondent violated N.J.S.A. 18A:12-24(c) when he participated in Board discussions regarding the return of Mr. Vicari as Superintendent. Additionally, based on the undisputed fact that on February 23, 2011, the respondent made the motion to appoint Mr. Vicari to the position of Interim Superintendent and then voted for Mr. Vicari's appointment, the respondent was ordered to show cause in writing why he should not be found to have violated N.J.S.A. 18A:12-24(c), which provides:

No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family;

In order to find a violation of N.J.S.A. 18A:12-24(c), the Commission must find that the respondent has either: 1) taken action in his official capacity in a matter where he, or a member of his immediate family had a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment or 2) acted in his official

capacity in a matter where he or a member of his immediate family had a personal involvement that is or creates some benefit to him or the member of his immediate family.

While the respondent continues to argue that the independent status of the Board of Elections insulates him from any perceived conflict in this matter, the Commission disagrees. Although the Board of Elections apparently has the sole authority to appoint its employees under Title 19, the Commission notes that the enabling statute nevertheless makes the compensation for Board of Elections employees subject to the approval of the Board of Chosen Freeholders of the County of Ocean. That statute provides, in relevant part:

In all counties of the first class the county board may appoint some suitable person clerk of such board. In counties of the first class having a population of less than 800,000, the county board may appoint 4 additional office employees, and in counties of the first class having a population of more than 800,000, the county board may appoint not more than 6 additional office employees, all of whom when appointed by such county boards shall be appointed from the competitive class of civil service, provided, however, that any employee now serving and who has not been appointed from the competitive class of civil service shall be in the classified service of the civil service upon passage of this act. The compensation of the clerk of the county board of elections in counties of the first class shall be in an amount recommended by the county board of elections and subject to the approval of the board of chosen freeholders of the county affected, provided, however, that such compensation shall be not less than \$5,000.00 per annum. The compensation of such office employees shall be recommended by the county board and approved by the board of chosen freeholders. All persons now employed by the board in the competitive class of civil service and such other employees now performing assigned duties shall hold such employment in the competitive class of civil service. N.J.S.A. 19:6-17.

See also, Trainor v. Burlington County Board of Chosen Freeholders, 216 N.J. Super. 289, 294-96 (App. Div. 1987). Even granting that the respondent is a part-time seasonal employee of the Board of Elections in Ocean County, the Commission finds that this record supports the conclusion that he had an indirect financial involvement with the Board of Chosen Freeholders as the funding source for the Board of Elections in Ocean County and, consequently, with Joseph Vicari, who sits on the Board of Chosen Freeholders. The Commission presumes that Mr. Vicari recognized this affiliation when he chose to abstain from the appointment of the respondent to the Board of Elections in April 2010.

There is no dispute that the respondent was a member of the Board's Personnel Committee and that he took part in discussions about Mr. Vicari's possible return to the District as Superintendent. A Board member's presence and participation in a discussion where he is conflicted is sufficient to sustain a finding of violation. In I/M/O Anne Pirillo, Washington Twp.

Bd. of Ed., Gloucester County, C12-04 (September 30, 2004) Commissioner of Education Decision No 421-04, decided October 29, 2004, a Board member was found to have violated N.J.S.A. 18A:12-24(c) when she was present for, and participated in, discussions during a Business Affairs Committee meeting when bids for the purchase of new copiers were discussed and one of the bidders was a company in which her husband possessed a financial interest. Although the Board member abstained from the subsequent vote to award the contract, the Commission was persuaded that her attendance and participation in the discussions prior thereto were in violation of N.J.S.A. 18A:12-24(c). Therein, the Commission also reflected on its decision in SEC v. Michael Kilmurray, Lacey Twp. Bd. of Ed., Ocean County, C12-94 (February 24, 1998), Commissioner of Education Decision No. 155-98 (April 15, 1998) where it found that “when a school official has a conflict of interest of which the public is aware, and that school official goes behind closed doors when that item is discussed, the situation creates a justifiable impression among the public that their trust is being violated.” (Kilmurray, supra, at p. 3)

Additionally, as set forth in the factual findings, at the Board’s meeting on February 23, 2011, the respondent moved to appoint Mr. Vicari as the Interim Superintendent of Schools. In I/M/O Alexander Sipos, Garfield Bd. of Ed., Bergen County, C20-99 (May 23, 2000) Commissioner of Education Decision No. 221-00SEC, decided July 10, 2000, the Commission found that the respondent violated N.J.S.A. 18A:12-24(c) when he made motions to pass resolutions that resulted in the appointment of his wife to two positions with the Board. Although there was no information before the Commission to indicate that the respondent participated in the discussions or involved himself in the decision to hire his wife, and notwithstanding that the respondent argued he made the motion as the chairperson of the Personnel Committee, that the resolutions were en masse and he recused himself from the vote, the Commission nevertheless found that the respondent acted in his official capacity. See also, I/M/O Paul J. Birch, Prospect Park Bd. of Ed., Passaic County, C04-10 (October 26, 2010), Commissioner of Education Decision No. 533-10SEC.

The respondent’s involvement continued as he voted on February 23, 2011 to appoint Mr. Vicari as the Interim Superintendent of Schools. In I/M/O Carmelo Garcia, Hoboken Bd. of Ed., Hudson County, C41-05 (October 24, 2006) Commissioner of Education Decision No. 436-06SEC, decided December 8, 2006, the Commission concluded that a board member violated N.J.S.A. 18A:12-24(c) when he voted to approve a contract with a local public relations firm, Fitz Media, Inc., which was owned by Maurice Fitzgibbons, an elected Freeholder in Hudson County. The respondent had been an employee of the county since 2002 and served as an aide to Fitzgibbons since 1998. Thus, the Commission found that the respondent was at all times an employee of Hudson County, although not a direct employee of Mr. Fitzgibbons. The Commission found that, as such, the respondent “had an indirect financial involvement with Freehold Fitzgibbons, having worked as his aide since 1998.” That involvement, according to the Commission, might reasonably be expected to impair his objectivity when voting for a contract with Fitzgibbon’s media firm. (Garcia, supra, at p. 4)

Similarly, in I/M/O Salvatore Buono, Pennsauken Twp. Bd. of Ed., Camden County, C16-94 (April 9, 1996) Commissioner of Education Decision No. 138-96SEC, decided April 9,

1996, the Commission determined that a Board member violated N.J.S.A. 18A:12-24(c)<sup>3</sup> when he cast a vote for a Board resolution to reemploy his business partner as Transportation Director. There, the respondent was the co-owner of a catering business with his business partner, Richard Errigo. Mr. Errigo was the Transportation Director of the Pennsauken School District until he retired in 1994. On June 17, 1993, the respondent voted for Mr. Errigo to be re-employed as the Transportation Director for the 1993-94 school year. In analyzing whether there was a violation, the Commission underscored that the relevant inquiry was not whether the respondent cast the deciding vote, but “whether the public could reasonably perceive that Mr. Buono had a conflict of interest that would keep him from exercising independent judgment in voting for his business partner.” The Commission reasoned that voting for one’s business partner, and ostensibly friend, “creates the appearance of favoritism that the Legislature intended the School Ethics Act to prevent.” (Buono, supra, at p. 3)<sup>4</sup>

Finally, the Commission underscores that a finding of violation may indeed be grounded in an indirect financial involvement, such as exists herein. The Commission previously found that a Board member violated N.J.S.A. 18A:12-24(c) when she voted on a resolution authorizing the issuance and sale of new bonds with Commerce Bank designated as the paying agent for the bond issue where she was employed as a Vice President of a wholly owned subsidiary of Commerce Bank/North. The Commission determined that where a Board member’s employer shares a parent company with the corporation that seeks to contract with the Board, there exists a relationship that indirectly affects the Board member and, therefore, an indirect financial involvement that might reasonably be expected to impair the Board member’s objectivity. See, I/M/O Patricia Haines, Haddonfield Bd. of Ed., Camden County, C07-00 (September 27, 2000) Commissioner of Education Decision No. 389-00SEC, decided November 27, 2000.

## DECISION

For the reasons set forth above, the Commission finds that the respondent acted in his official capacity in a matter where he had an indirect financial involvement which a reasonable person could perceive to impair his objectivity or independence of judgment so as to violate N.J.S.A. 18A:12-24(c) when he: (1) participated in Board discussion regarding the possible return of Mr. Vicari as the Interim Superintendent; (2) made a motion at the February 23, 2011

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<sup>3</sup> At the time this case was decided, N.J.S.A. 18A:12-24(c) read: “No school shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment.” Nevertheless, the Commission finds its reasoning in Buono to be applicable to this matter.

<sup>4</sup> Accord, I/M/O Rosemary Jackson, Camden City Bd. of Ed., Camden County, C11-01 (June 26, 2001), Commissioner of Education Decision No. 238-01SEC (July 27, 2011), wherein the Commission and a respondent Board member reached a settlement wherein they agreed that the respondent violated N.J.S.A. 18A:12-24(c) when she inadvertently voted on a bill list that contained a bill of her employer. In I/M/O James Carpenter, Pennsville Bd. of Education, C21-01, C22-01 (consolidated) (November 27, 2001), Commissioner of Education Decision No. 30-02 SEC (January 31, 2002) wherein a Board member was found to have violated N.J.S.A. 18A:12-24(c) when he participated in the discussion and vote on the resolution to continue the appointment of his employer as the depository for the Board of Education.

meeting to approve the appointment of Mr. Vicari as the Interim Superintendent; and (3) voted on the appointment of Mr. Vicari at the February 23, 2011 meeting.

## PENALTY

The Commission recommends a penalty of reprimand. In so doing, the Commission recognizes that it has recommended harsher penalties under analogous circumstances. In Buono, supra, the Commission recommended, and the Commissioner approved, a penalty of a one month suspension. In Sipos, supra, the Commission recommended, and the Commissioner approved, a penalty of censure. In weighing the appropriate penalty in this matter, the Commission has considered the respondent's statement in response to its Probable Cause Notice/Order to Show Cause, as well as his repeated assertions in his answer, that his actions were guided by counsel's advice. In Garcia, supra, the respondent similarly argued that he was advised by legal counsel that he could vote on the referenced contract. The Commission found that, if true, this would mitigate against the penalty, although it would not negate the fact that the violation occurred. (Garcia, supra, at p. 4) The respondent therein received a 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 School Ethics Commission's recommended sanction. Parties may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's finding of violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of violation.

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of violation may file, within **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, indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, NJ 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the School Ethics Commission 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 within **30 days** of the filing date of the decision from which the appeal is taken. The filing date shall be three 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 (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: September 28, 2011

## **Resolution Adopting Decision – C48-10**

**Whereas**, the School Ethics Commission has considered the pleadings filed by the parties, the documents submitted in support thereof; and

**Whereas**, at its meeting on May 24, 2011, the Commission found probable cause to credit the allegation that the respondent violated N.J.S.A. 18A:12-24(c) of the School Ethics Act; and

**Whereas**, at its meeting on May 24, 2011, pursuant to N.J.A.C. 6A:28-1.6(a), the Commission further ordered the respondent to show cause in writing why he should not be found to have violated N.J.S.A. 18A:12-24(c) for his motion and vote on February 23, 2011; and

**Whereas**, the respondent was so notified by Probable Cause Notice dated June 28, 2011 and accorded 20 days to submit a written statement setting forth the reasons why he should not be found in violation of the Act.

**Whereas**, the respondent submitted a written statement which was considered by the Commission;

**Whereas**, at its meeting on August 23, 2011, the Commission determined that the respondent violated N.J.S.A. 18A:12-24(c) of the School Ethics Act and recommended a penalty of reprimand; and

**Whereas**, at its meeting on September 27, 2011, the Commission agreed that the within decision accurately memorializes its findings and recommendations; and

**Now Therefore Be It Resolved**, that the Commission hereby adopts the within decision and directs its staff to notify all parties to this action of the decision.

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Robert W. Bender, Chairperson

I hereby certify that the Resolution  
was duly adopted by the School  
Ethics Commission at its public  
meeting on September 27, 2011.

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Joanne Boyle  
Executive Director

