

# SCHOOL ETHICS COMMISSION MEETING PUBLIC SESSION MINUTES

**MARCH 22, 2016**

Robert Bender called the meeting to order at 9:41 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, Dennis Roberts (who arrived at 9:51a.m.) and Chairperson Robert Bender. Ellen Polaner attempted to participate briefly via telephone. However, the call was terminated early during Executive Session due to communication issues.

Acting Executive Director Joanne Restivo, Legal Specialist Jesse Landon, Administrative Assistant Karin Molnar (who arrived at 9:55 a.m.) and Deputy Attorney General Donna Arons were also in attendance.

**9:44 a.m.** Motion was made by Dan Kaplan and seconded by Louis Modugno 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: C05-16, C39-16, C36-15, C41-15, C37-15, C34-15, C35-15, C38-15, C03-16, C39-15, C31-15, C43-15, C40-13 A27-15, A05-16, A09-16, A10-16, A11-16, A36-15, A37-15, A39-15, A40-15, A01-16, A02-16, A03-16, A04-16, A06-16, A07-16, A08-16, A42-15, T06-15, Doctrines of Necessity filed by the Bayonne and Passaic Boards of Education, and a discussion regarding NJSBA Notes. Vote: 6– Yes 0 – No

**12:55 p.m.** Open Session

## Complaints

**C05-16** Motion was made by Dennis Roberts and seconded by Louis Modugno to find no probable cause, find not frivolous and transmit this matter to the Office of Administrative Law (“OAL”) for a hearing to be held at a later date. Vote: 6 – Yes 0 – No

**C39-15** Motion was made by Louis Modugno and seconded by Dennis Roberts to clarify this Commission’s February 23, 2016 determination as discussed and to table the vote on the proposed written decision in this matter. Vote: 6 – Yes 0 – No

**C36-15** Motion was made by Louis Modugno and seconded by Dennis Roberts to grant the Motion to Dismiss proffered by Respondent as to N.J.S.A. 18A:12-24.1(a) and (d) in Count 1 and all of Count 2, not frivolous. Vote: 6 – Yes 0 – No

**C41-15** Motion was made by Louis Modugno and seconded by Frank Digesere to grant the Motion to Dismiss proffered by Respondents. Vote: 6 – Yes 0 – No

**C37-15** Motion was made by Frank Digesere and seconded by Louis Modugno to dismiss Count 1 as untimely, dismiss N.J.S.A. 18A:12-24.1(a) in Counts 2, 3 and 9, dismiss Count 8 due to lack of jurisdiction, to find not frivolous, and to transmit this matter to the OAL for a hearing to be held at a later date. Vote: 6 – Yes 0 – No

**C34-15** Motion was made by Mark Finkelstein and seconded by Louis Modugno to rescind the Commission’s February 23, 2016 vote as to N.J.S.A. 18A:12-24.1(f) in Count 2 only. Vote: 4 – Yes 0 – No (Frank Digesere and Dan Kaplan abstained.)

**C34-15** A second motion was made by Mark Finkelstein and seconded by Louis Modugno find probable cause as to N.J.S.A. 18A:12-24.1(f) in Count 2 and to adopt the decision as written. Vote: 4 – Yes 0 – No (Frank Digesere and Dan Kaplan abstained.)

**C35-15** Motion was made by Dennis Roberts and seconded by Mark Finkelstein to rescind the Commission’s February 23, 2016 vote in its entirety. Vote: 4 – Yes 0 – No (Frank Digesere and Dan Kaplan abstained.)

**C35-16** A second motion was made by Dennis Roberts and seconded by Mark Finkelstein to table this matter and direct staff to send a letter to the parties requesting additional information and clarification. Vote: 4 – Yes 0 – No 2 - Abstentions (Frank Digesere and Dan Kaplan abstained.)

**C38-15** Motion was made by Dennis Roberts and seconded by Mark Finkelstein to adopt the decision with edits. Vote: 4 – Yes 0 – No 2 – Abstentions (Frank Digesere and Dan Kaplan abstained.)

**C03-16** Motion was made by Dennis Roberts and seconded by Mark Finkelstein to adopt the decision as written. Vote: 4 – Yes 0 – No (Frank Digesere and Dan Kaplan abstained.)

**C31-15** Motion was made by Dan Kaplan and seconded by Mark Finkelstein to adopt the decision as written. Vote: 6 – Yes 0 – No

**C43-15** Motion was made by Dan Kaplan and seconded by Mark Finkelstein to adopt the decision as written. Vote: 6 – Yes 0 – No

**C40-13** Motion was made by Dan Kaplan and seconded by Mark Finkelstein to adopt the decision as written. Vote: 6 – Yes 0 – No

**Advisory Opinions**

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

**A05-16** Motion was made by Dennis Roberts and seconded by Mark Finkelstein to advise as discussed. Vote: 5 – Yes 0 – No 1 – Abstention (Dan Kaplan abstained.)

**A09-16** Motion was made by Dennis Roberts and seconded by Louis Modugno to advise as discussed. Vote: 6 – Yes 0 – No

**A10-16** Motion was made by Louis Modugno and seconded by Dennis Roberts to advise as discussed. Vote: 6 – Yes 0 – No

**A11-16** Motion was made by Louis Modugno and seconded by Mark Finkelstein to advise as discussed. Vote: 6 – Yes 0 – No

**A40-16** Motion was made by Dennis Roberts and seconded by Louis Modugno to make public. Vote: 6 – Yes 0 – No

**A01-16** Motion was made by Dennis Roberts and seconded by Louis Modugno to make public. Vote: 6 – Yes 0 – No

**A03-16** Motion was made by Frank Digesere and seconded by Mark Finkelstein to adopt this Opinion as amended. Vote: 6 – Yes 0 – No

**A04-16** Motion was made by Dennis Roberts and seconded by Louis Modugno to adopt this Opinion as written. Vote: 6 – Yes 0 – No

**A06-15** Motion was made by Frank Digesere and seconded by Mark Finkelstein to table this matter. Vote: 6 – Yes 0 – No

**A07-15** Motion was made by Frank Digesere and seconded by Dennis Roberts to adopt this Opinion as written. Vote: 6 – Yes 0 – No

**A08-16** Motion was made by Frank Digesere and seconded by Mark Finkelstein to adopt this Opinion as written. Vote: 6 – Yes 0 – No

**Other Business**

**C42-15** This matter was on the agenda for informational purposes only.

**C31-15** This matter was on the agenda for informational purposes only.

**C40-15** This matter was on the agenda for informational purposes only.

**C43-15** This matter was on the agenda for informational purposes only.

**1:05 p.m.** Dennis Roberts departed.

**Minutes**

The February 23, 2016 Minutes, both public and executive sessions, were tabled because only 3 eligible Commission members remained in attendance and a vote to approve the Minutes requires 4 votes.

**1:06 p.m.** Motion was made by Mark Finkelstein and seconded by Frank Digesere to adjourn. Vote:

Submitted by:

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Karin L. Molnar

Approved by:

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Joanne M. Restivo, Acting Executive Director

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