

## **School Ethics Commission Meeting Public Session Minutes**

**May 23, 2023**

Chairperson Robert Bender called the regularly scheduled meeting of the School Ethics Commission (Commission or SEC) to order at 9:32 a.m.

Notice of the regularly scheduled meeting was provided to the State House Press Corps and the Secretary of State, and filed as required by the Open Public Meetings Act.

### **I. Roll Call**

<b>Roll Call</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Present</b>	X	X	X	X	X		5
<b>Absent</b>						X	1

Also, in attendance were Jennifer Killough-Herrera, Executive Director, Office of Legal Affairs; Jeannine Pizzigoni, staff member; and Carolyn Labin, Deputy Attorney General (DAG). Everyone in attendance at the meeting participated via telephone/video.

### **II. First Public Comment**

At the start of the meeting, Chairperson Bender explained to the public (who also accessed the meeting by telephone/video) how the meeting would be conducted. More specifically, Chairperson Bender explained that the public would be afforded the opportunity to provide public comment regarding his/her case; the Commission would then adjourn to executive session (on a different conference line); the Commission would return to public at approximately 12:00 p.m.; at that time, members of the public would be afforded another opportunity to provide public comment in connection with his/her case; and then the Commission would vote on matters pertinent to its business.

Executive Director Killough-Herrera also advised the public as follows: individuals wishing to provide public comments/statements during First and Second Public Comment must be speaking about matters on the Commission's agenda; anyone wishing to provide public comments/statements about a matter not on the agenda should reserve their public comments/statements for New Business; anyone offering public comments/statements about a matter on the agenda is asked not to relitigate the merits of their case as the Commission's review of matters is limited to the written submissions; and everyone in attendance is asked to exercise an appropriate degree of decorum as this is a public forum.

**9:39 a.m.** Alyssa Weinstein, counsel on behalf of Respondent in the matter docketed as C90-22, noted her attendance, but did not offer any public comments/statements.

Motion was made by Dennis Roberts, and seconded by Carol E. Sabo to add C42-23 to the agenda under “Other Business.”

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**III. Executive Session**

At 9:38 a.m., the following Resolution was read:

*Whereas*, the Open Public Meetings Act (*N.J.S.A. 10:4-6 et seq.*) authorizes the Commission, a public body, to meet in Executive Session under certain circumstances; and

*Whereas*, the Open Public Meetings Act requires that the Commission adopt a Resolution at a public meeting to go into Executive Session; and

*Now therefore be it resolved* that, consistent with the provisions of *N.J.A.C. 10:4-12(b)*, the Commission will adjourn to Executive Session to discuss matters which, by statute, are regarded as confidential and also to discuss matters possibly involving litigation, C69-18; C75-18; C52-21; C88-21; C32-23; 63-21; C90-22; C93-22; C116-22; C118-22; C125-22; C02-23; C04-23; C08-23; C13-23; A05-23; A10-23; A22-13; A18-19; A04-23; A06-23; A07-23; A08-23; A09-23; A10-23; C19-23; C20-23; C23-23; C26-23; C30-23; C33-23; C35-23; Doctrines of Necessity submitted by the Waterford Township and Pleasantville Boards of Education; nominating committee to present name of nominee for Chairperson for the term July 1, 2023 through June 30, 2024; vote to adopt Resolution setting forth the 2024 SEC meeting dates/times; consider whether to permit Complainant to amend Complaint in connection with C42-23 pursuant to *N.J.A.C. 6A:28-6.7*; and

*Now therefore be it further resolved* that the Commission will return to open session to conduct business at the conclusion of Executive Session.

Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adjourn to Executive Session to discuss the matters set forth in the foregoing Resolution.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**IV. Return to Public**

At **12:03 p.m.**, a motion was made by Mark Finkelstein, and seconded by Dennis Roberts, to return to public session for the purpose of receiving public comment/testimony, and to vote on matters discussed in Executive Session (as appropriate).

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**V. Complaints to Review**

**C69-18** Motion was made by Dennis Roberts, and seconded by Mark Finkelstein, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**C75-18** Motion was made by Michael Carucci, and seconded by Carol E. Sabo, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**C52-21** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X		X	X	X		4
<b>No</b>							0
<b>Abstention</b>		X <sup>1</sup>					1

**C88-21** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

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<sup>1</sup> Commissioner Carucci had a conflict of interest, and therefore, did not participate in the executive session discussion or the vote related to this matter.

**C32-23** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to draft a decision as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**VI. Decisions to Adopt as Written**

**C63-21** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**C90-22** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as amended.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**C93-22** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X		X	X	X		4
<b>No</b>							0
<b>Abstention</b>		X <sup>2</sup>					1

**C116-22** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**C118-22** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

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<sup>2</sup> Commissioner Carucci had a conflict of interest, and therefore, did not participate in the executive session discussion or the vote related to this matter.

**C125-22** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**C02-23** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**C04-23** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**C08-23** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**C13-23** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the decision as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

## **VII. Advisory Opinions**

**A22-13** This matter was on the agenda to vote to remove from public, but the Commission could not take action because it did not have the statutorily required number of Commissioners present to remove the public advisory opinion.

**A18-19** This matter was on the agenda to vote to remove from public, but the Commission could not take action because it did not have the statutorily required number of Commissioners present to remove the public advisory opinion.

**A04-23** This matter was on the agenda to vote to make public only, but the Commission could not take action because it did not have the statutorily required number of Commissioners present to remove the public advisory opinion.



**A05-23** Motion was made by Mark Finkelstein, and seconded by Dennis Roberts, to adopt the advisory opinion as written.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**A06-23** This matter was on the agenda to vote to make public only, but the Commission could not take action because it did not have the statutorily required number of Commissioners present to remove the public advisory opinion.

**A07-23** This matter was on the agenda to vote to make public only, but the Commission could not take action because it did not have the statutorily required number of Commissioners present to remove the public advisory opinion.

**A08-23** This matter was on the agenda to vote to make public only, but the Commission could not take action because it did not have the statutorily required number of Commissioners present to remove the public advisory opinion.

**A09-23** This matter was on the agenda to vote to make public only, but the Commission could not take action because it did not have the statutorily required number of Commissioners present to remove the public advisory opinion.

**A10-23** Motion was made by Mark Finkelstein, and seconded by Dennis Roberts, to draft an advisory opinion as discussed.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

## **VIII. Administrative Dismissals**

**C19-23** This matter was on the agenda for informational purposes only.

**C20-23** This matter was on the agenda for informational purposes only.

**C23-23** This matter was on the agenda for informational purposes only.

**C26-23** This matter was on the agenda for informational purposes only.

**C30-23** This matter was on the agenda for informational purposes only.

- C33-23** This matter was on the agenda for informational purposes only.  
**C35-23** This matter was on the agenda for informational purposes only.

## **IX. Other Business**

**Doctrines of Necessity:** The Doctrines of Necessity submitted by the Waterford Township and Pleasantville Boards of Education, were on the agenda for informational purposes only.

**Nominating committee to present name of nominee for Chairperson for the term July 1, 2023, through June 30, 2024.** Motion was made by Mark Finkelstein, and seconded by Dennis Roberts to nominate Commissioner Bender as the Chairperson for the July 1, 2023, through the June 30, 2024 term.

### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**Vote to adopt the Resolution setting forth the 2024 SEC meeting dates.** Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the 2024 meeting dates as proposed.

### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**Vote to consider whether to permit Complainant to amend Complaint in connection with C42-23 pursuant to N.J.A.C. 6A:28-6.7.** Motion was made by Carol E. Sabo, and seconded by Michael Carucci, to allow Complainant to amend Complaint.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**X. Minutes**

Motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adopt the minutes of the regularly scheduled meeting (public and executive) conducted on April 25, 2023.

**Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

**XI. Second Public Comment**

Members of the public in attendance at the meeting were again invited to offer public comment/statements regarding any matter on the Commission's Agenda.

**12:03 p.m.** Martin Welzmuller, Complainant in the matter docketed as C90-22, noted his attendance, but did not offer any further public comments/statements.

**12:03 p.m.** Alyssa Weinstein, counsel on behalf of Respondent in the matter docketed as C90-22, again noted her attendance, but did not offer any public comments/statements.

**12:14 p.m.** Commissioner Roberts offered the following statement:

Kathy Whalen, [former Director of the School Ethics Commission,] has been a valuable asset to all of us and she will be greatly missed. We would like to thank Jeannine for steadying the ship, and also Carolyn for her thoughtful guidance and we look forward to working with Brigid. Thank you, Jen for steering the ship today. It is much appreciated.

## **XII. Adjournment**

At 12:15 p.m., a motion was made by Dennis Roberts, and seconded by Carol E. Sabo, to adjourn.

### **Vote**

<b>Vote</b>	<b>Robert Bender</b>	<b>Michael Carucci</b>	<b>Mark Finkelstein</b>	<b>Dennis Roberts</b>	<b>Carol E. Sabo</b>	<b>Richard Tomko</b>	<b>Total</b>
<b>Yes</b>	X	X	X	X	X		5
<b>No</b>							0
<b>Abstention</b>							0

Submitted by:

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Jeannine Pizzigoni

Approved by

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Brigid C. Martens, Acting Director,  
School Ethics Commission