

**New Jersey Commissioner of Education**  
**Final Decision**

Atif Nazir,

Complainant,

v.

Nitang Patel, Board of Education of the  
Township of Piscataway, Middlesex County,

Respondent.

**Synopsis**

Petitioner, a community resident and former member of the Piscataway Board of Education, alleged that respondent, a then-current member of the Piscataway Board of Education, violated *N.J.S.A.* 18A:12-24.1(e), (f) and (g) of the School Ethics Act when he included his name, picture, and a reference to his position on the Board of Education on a political flyer that was distributed during a primary election in 2019. The flyer, which did not include a disclaimer to indicate that respondent's position only represented his personal views and not that of the Board, referred to "a radical group under the leadership of [complainant] that wants to take over our township government." The School Ethics Commission (SEC) recommended a penalty of censure.

The case was forwarded to the Commissioner for final determination of the appropriate penalty in this matter. Upon review, the Commissioner concurred with the penalty recommendation of the SEC, finding that a censure is the appropriate penalty for respondent's failure to include a disclaimer while referencing his position on the Board in a targeted political mailing. Accordingly, the respondent shall be censured as a school official found to have violated the School Ethics Act.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

**New Jersey Commissioner of Education**  
**Final Decision**

Atif Nazir,

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Nitang Patel, Board of Education of the  
Township of Piscataway, Middlesex County,

Respondent.

The record of this matter and the decision of the School Ethics Commission (SEC) have been reviewed, as have the exceptions filed by respondent and complainant's reply thereto.

The SEC found that respondent violated *N.J.S.A.* 18A:12-24.1(e), (f) and (g) when he included his name, picture, and a reference to his position on the Board of Education on a political flyer that was distributed during a primary election in 2019. The flyer, which did not include a disclaimer to indicate that respondent's position only represented his personal views and not that of the Board, referred to "a radical group under the leadership of [complainant] that wants to take over our township government." The SEC recommended a penalty of censure.<sup>1</sup> Pursuant to *N.J.S.A.* 18A:12-29(c), the SEC's decision was forwarded to the Commissioner for final determination on the recommended penalty.

In support of its recommendation for a penalty of censure, the SEC relied on four cases. First, in *Kwapniewski v. Curioni, Lodi Board of Education, Bergen County*, SEC Docket No. C70-17, decided December 18, 2019 (*Curioni*), *aff'd* Commissioner January 23, 2020, the board member received a six-month suspension after repeatedly personally attacking a teacher on blog

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<sup>1</sup> The Initial Decision of the Office of Administrative Law recommended a penalty of reprimand, finding that respondent only violated *N.J.S.A.* 18A:12-24.1(f) and not *N.J.S.A.* 18A:12-24.1(e) or (g).

posts over a two-month period by posting inaccurate information about her salary, questioning her teaching qualifications and honesty, calling her names, and posting a picture of the street where she lives. Despite inclusion of a disclaimer, the board member repeatedly referenced his status on the Board. Here, the SEC noted that while respondent only endorsed a single political flyer rather than a series of blog posts, the significance of his failure to include a disclaimer while referencing his position on the Board cannot be ignored, and a censure is the appropriate penalty.

Second, in *Dunbar Bey v. Brown, Camden Board of Education, Camden County*, SEC Docket No. C25-11, decided December 21, 2011 (*Brown*), the SEC recommended a penalty of censure after a board member failed to remove the superintendent's picture which had appeared under his Facebook post referencing local terrorists; the Commissioner, however, found a reprimand was more appropriate given the lack of prior violations. In the instant matter, the SEC explained that the respondent's conduct was more deliberate and egregious than the action in *Brown* and warrants a penalty of censure.

Third, in *Fleres v. Zhong, West Windsor-Plainsboro Board of Education, Mercer County*, SEC Docket No. C17-18, decided May 3, 2019 (*Zhong*), a board member disclosed confidential information about an incident involving a student to his immediate family, and the information then spread. The SEC recommended a penalty of censure for the first-time offense, and the Commissioner agreed. The SEC noted that, as in *Zhong*, a penalty greater than a reprimand is appropriate for the first-time offense in this case.

Finally, in *I/M/O Christopher T. Treston, Randolph Township Board of Education, Morris County*, SEC Docket No. 71-18, decided April 27, 2021 (*I/M/O Treston*), the SEC recommended a penalty of censure, finding that a board member used an insufficient disclaimer in an Op-Ed that targeted a candidate for the Board and endorsed another because he made multiple references to his position on the Board. While the Commissioner has not yet issued a decision on the penalty in *Treston*, the SEC notes that the facts are similar to the within matter.

While respondent did not file an appeal to the Commissioner of the underlying finding of a violation, he did file exceptions to the recommended penalty. In his exceptions, respondent argues that the Commissioner should reduce the penalty from a censure to a reprimand because he had no prior infractions and his conduct was not severe enough to warrant a censure. Respondent contends that the cases the SEC relied upon do not support a penalty of censure. He maintains that the conduct in *Curioni, supra*, is so severe that it cannot be compared to the present matter, and that petitioner's conduct does not rise to the same level of indecency. He also notes that the penalty in *Treston, supra*, is not final as it is pending before the Commissioner. Respondent argues that the disclosure of information concerning a minor in *Zhong, supra*, was much more egregious than his conduct; therefore, while a penalty of censure was justified for a first-time infraction in *Zhong*, it is not justified here. Finally, respondent contends that this matter is most analogous to *Brown, supra*, where the final penalty was a reprimand, and that his actions were even less egregious than in that case, because the flyer was only sent to a group and not posted to social media. Accordingly, respondent urges the Commissioner to reduce the penalty to a reprimand.

In reply, complainant agrees with the SEC that a penalty of censure is appropriate in this circumstance, and the case law supports such a penalty. Complainant emphasizes that the flyer was inflammatory and Islamophobic because, as the flyer was translated into Gujarati and sent to Hindu homes, it exploits the divide between Muslim Pakistani and Hindu Gujarati Indian communities.

Upon review, the Commissioner concurs with the SEC that censure is the appropriate penalty. Respondent attached his name to a political flyer and deliberately chose to indicate that he was a member of the Board, without including any disclaimer to indicate that his views were not those of the Board. His violations were not inadvertent; he purposefully referenced his position on the Board to support his political agenda. The Commissioner does not find respondent's exceptions to be persuasive. Instead, the Commissioner agrees with the SEC that, like *Zhong, supra*,

respondent's violations warrant a penalty of censure for a first-time offense. Additionally, respondent's actions were more egregious than those in *Brown, supra*, because he intentionally used his status as a Board member on a political flyer without any type of disclaimer. As such, the Commissioner finds that a censure is the appropriate penalty for respondent's failure to include a disclaimer while referencing his position on the Board in a targeted political mailing.

Accordingly, the respondent shall be censured as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.<sup>2</sup>



ACTING COMMISSIONER OF EDUCATION

Date of Decision: August 12, 2021  
Date of Mailing: August 12, 2021

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<sup>2</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A.* 18A:6-9.1. Under *N.J.Ct.R.* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. EEC 12359-19

AGENCY DKT. NO. C43-19

**ATIF NAZIR,**

Complainant,

v.

**NITANG PATEL, A MEMBER OF THE  
PISCATAWAY BOARD OF  
EDUCATION, MIDDLESEX COUNTY,**

Respondent.

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**Yael Bromberg, Esq. and Nina Rossi, Esq.,** for complainant (respectively of Bromberg Law, LLC, and CAIR New Jersey, attorneys)

**Donald W. Stieh, Esq.,** for respondent (Stanton & Stieh, P.A., attorneys)

Record Closed: February 12, 2021

Decided: March 11, 2021

BEFORE **JOSEPH A. ASCIONE, ALJ:**

**STATEMENT OF THE CASE**

Complainant, Atif Nazir, asserts that respondent, Nitang Patel (Patel), a member of the Piscataway Board of Education (Piscataway BOE), violated the Code of Ethics for school board members contained in the School Ethics Act (the Act), N.J.S.A. 18A:12-

24.1(e), (f), and (g), by subscribing his name and the Board of Education, on a political piece distributed in the election community in 2019. The piece issued without a disclaimer that the piece was respondent's personal endorsement and not an official position or action of the Piscataway BOE. Complaint asserts the "expression in the letter was intentionally inflammatory", as the word "radical" appears in the piece. Respondent acknowledges the document speaks for itself, recognizing the absence of a disclaimer and otherwise denies that he engaged in any conduct prohibited by the Act.

### **PROCEDURAL HISTORY**

On August 28, 2019, the School Ethics Commission (Commission) issued a Letter Decision, determining that complainant's complaint was not frivolous in accordance with N.J.A.C. 6A:28-1.2 and declined to impose sanctions under N.J.S.A. 18A:12-29 (e). The Commission, pursuant to N.J.A.C. 6A:28-10.8(a), transmitted the matter to the Office of Administrative Law (OAL), to conduct a hearing to determine whether respondent's actions violated N.J.S.A. 18A:12-24.1(e) and (g), provisions of law regarding the ethical conduct of school board members. The transmission, the OAL filed on September 6, 2019, pursuant to N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1.

On January 8, 2020, the respondent waived any appearance in this matter and requested and consented to a disposition on the papers.

The complainant sought leave to amend the Complaint to include violations of N.J.S.A. 18A:12-24.1(f), respondent did not oppose the application, and the OAL granted the application. An amended complaint nominated as a "Complaint", dated February 20, 2020, does not appear in the files of the OAL until April 2020. An Answer to the Amended Complaint, respondent filed on July 24, 2020.

A Zoom<sup>®</sup> hearing was conducted on November 30, 2020. The record was kept open to allow the parties to submit written summations. The record closed on February 12, 2021.

## **FACTUAL DISCUSSION**

Complainant provided three witnesses, himself, Darshni Patel (no relation to respondent) (Darshni), and Aman Javaid (Javaid). Complainant also provided the flyer in question with an attached translation into Gujarati (Exhibit P-1). Gujarati is an Indo-Aryan language native to the Indian State of Gujarat. Gujarat is on the southwest border of India and in proximity to the southeast border of Pakistan. A quick history lesson, India at one time, a colony of Great Britain and the United Kingdom, gained its independence in 1947. When British rule came to an end, the subcontinent was partitioned along religious lines into two separate countries—India, with a majority of Hindus, and Pakistan, with a majority of Muslims. This information is to provide some background to the current controversy between the parties.

Another aspect of this matter is the term “radical” which has use as an adjective or noun, and numerous uses, the definition which complainant wishes the tribunal to consider is its use as, “(a) very different from the usual or traditional, ie. Extreme; (b) favoring extreme change in existing views, habits, conditions or institutions; (c) associated with political views, practices, or policies of extreme change; and (d) advocating extreme measures to retain or restore a political state of affairs.” e.g. the “extreme right.”<sup>1</sup>

The within matter involves the use of the word “radical” in a political flyer distributed during the Piscataway Township Council election in 2019 by three individuals affiliated with the Democratic Party.

The word radical has been used by both the conservative and liberal partisans of our political processes to pejoratively address views of their opposition.

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<sup>1</sup> The above definitions, appearing in the on-line version of Merriam-Webster’s on-line dictionary at <https://www.merriam-webster.com/dictionary/radical>. There are other definitions for use in math, medicine and botany and linguistics, not referred to here.



Complainant posits the word “radical” in the flyer connotes, inappropriate inflammatory, derogatory, references to a religious divisions between the Gujarati community and the Muslim community. That the use of the word is a subliminal message for Islamophobic messaging. This tribunal cannot make that distinction on the evidence presented, even if the tribunal accepted the excluded evidentiary documentation which complainant had not appropriately authenticated.

One of those individuals whose name and signature appear on the flyer Exhibit P-1, is the respondent herein who served on the Piscataway BOE during the Democratic Primary election cycle in 2019. The flyer reflects printed under respondent’s signature, his name, “Nitang Patel, Board of Education.” Respondent does not dispute this flyer, nor his signature, nor that he consented to its distribution.

As stated, respondent served on the Piscataway BOE, at the time of the distribution of the flyer<sup>2</sup>. As a member of the Piscataway BOE, respondent is subject to the School Ethics Act N.J.S.A. 18A:12-21 to 34.

N.J.S.A. 18A:12-22 provides, “The Legislature finds and declares:

a. In our representative form of government it is essential that the conduct of members of local boards of education and local school administrators hold the respect and confidence of the people. These board members and administrators must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

b. To ensure and preserve public confidence, school board members and local school administrators should have the benefit of specific standards to guide their conduct and of some disciplinary mechanism to ensure the uniform maintenance of those standards among them.”

The legislation at N.J.S.A. 18A:12-24 entitled Conflicts of Interest proceeds to proscribe various actions. The legislation at N.J.S.A. 18A:12-24.1 entitled Code of Ethics for School Board Members and proceeds to define inappropriate actions by members.

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<sup>2</sup> It appears respondent joined the Piscataway BOE on winning the 2018 election. See, <https://www.mycentraljersey.com/story/news/elections/2018/11/05/nj-midterm-elections-results-2018-middlesex-county/1521823002/>

Respondent does not dispute his actions violated a portion of the School Ethics Act, but maintains it was inadvertent. Complainant, through himself and two witnesses, posits the language of the political flyer is inflammatory and deserving of respondent's removal from office.

**Darshni Patel** (Darshni)

Darshni testified she presently attends George Mason University as a junior, and maintains a 3.91 grade point average. She emigrated from India and resides at the Princeton Gardens, a four-hundred-unit housing complex. She first saw the flyer (P-1) in June 2019. She had not been handed the flyer, but came upon it in her home. She had never met the respondent. She did not know how the flyer got into her home. She had not realized divergent views could be so harmful. She expressed the sentiment in the flyer as “dog whistle remarks” and “only seeing by skin tone.” Darshni explained it created a concern over the direction by the School Board to disregard a portion of the community.

**Aman Javaid** (Javaid)

Javaid, a seventeen-year-old at the time, was a graduating senior of Piscataway High School in June 2019. He is now at Rutgers University, seeking a degree as a business major. He is politically active. His parents have run for the township committee. He expressed the flyer, (P-1) had “buzz words” derogatory to the complainant. This upset Javaid. He claims the flyer is discriminatory, and by referring to complainant as “radical”, created an impression that people would not be safe in the neighborhood. He claimed the use of the word “radical” pointed to the Muslim community which includes about 600 persons. He described the flyer as “dog whistle politics.” He denied knowledge of the acquaintance of the respondent. He claimed he would not feel safe going to the Piscataway BOE. He argues the culpability of the respondent demands a serious penalty.

**Atif Nazir** (Nazir)

Complainant, Nazir, came to Piscataway in 2001, has three children, and works as a public health officer in one of the municipalities of Union County, directing about forty-five people. He served two terms on the Piscataway BOE from 2012 to 2018. He advises the Piscataway BOE is a non-partisan election and that new members of the Piscataway BOE are advised by David Rubio, Esq., the attorney for the Piscataway BOE, of the Code of Ethics on a new members orientation. He maintains, "radical group" refers to the Muslim community group. The flyer is promoting hate and fear. Historically, the Gujarat community are Hindu and Islamophobic.

The respondent did not testify. He answered the complaint and interrogatories by stating the document speaks for itself; and acknowledged he did lend his signature and endorsement to the flyer. Respondent claims the nature of the flyer leads any reasonable reader to the conclusion that respondent's actions were his individual comments and not that of the Piscataway BOE. Respondent disputes the flyer compromised the position of the Piscataway BOE. Respondent maintains the flyer is protected free speech, factually true, or is otherwise opinion.

The tribunal recognizes the flyer is distressing to the three witnesses. However, their personal reactions and statements the Board had become a hostile place toward members of their religious beliefs is not supported by any evidence. Taking the oath as a member of the Board of Education does not prevent that member from expression of his own political views, even when they dismiss the view of an opponent or the opposition in an election. Regretfully, political discourse, is neither attractive nor well intentioned to consider opposing views.

Various documents were excluded from evidence. The documents were related to alleged actions by other parties, newspaper editorials, protesting signatories, post the distribution of the flyer; and Piscataway BOE minutes prior to the distribution of the flyer. All not relevant to the determination of the facts and consequences this tribunal must make.

## **FACTUAL FINDINGS**

Much of the testimony and the facts adduced therefrom are either not in dispute or are admitted by the parties, and accordingly I **FIND**:

1. The complainant is a member of the public and a former member of the Piscataway BOE.
2. At the time of the distribution of P-1, the respondent, Nitang Patel, was a member of the BOE, having been elected to the BOE in the 2018 election.
3. As a member of the Piscataway BOE, Patel is subject to the School Ethics Act N.J.S.A. 18A:12-24.1.
4. Complainant presented no evidence Patel made any personal promise or take any action beyond the scope of his or her duties such that, by its nature, had the potential to compromise the Piscataway BOE.
5. Patel did surrender his independent judgment to a partisan political group by collaborating with other individuals to support certain candidates in the Democratic primary for the office of the Piscataway Township Committee.
6. Patel did not set forth a disclaimer on the flyer (P-1) that the word Board of Education only reflected his membership on the Piscataway BOE, and did not reflect the opinion of or approval by the Piscataway BOE.
7. Patel did not set forth the flyer was respondent's personal endorsement and not an official position or action of the Piscataway BOE.
8. Complainant presented no evidence Patel's actions were taken for personal gain or for the gain of a friend or family member.
9. Complainant presented no evidence Patel disclosed any confidential information to the injury of another.

10. Complainant presented no evidence that the flyer constituted an action of the Piscataway BOE, nor in any way compromised the Piscataway BOE.
11. The fact the flyer reflected the names of a council member and a zoning board member, contraindicated it was an action of the Piscataway BOE.

### **LEGAL ANALYSIS AND CONCLUSION**

The issues in this matter are whether, as complainant alleges, respondent violated N.J.S.A. 18A:12-24.1(e), (f), and/or (g) of the Code of Ethics for school board members by his collaboration in the distribution of a political flyer during the 2019 Piscataway Democratic Primary election, when he subscribed his name and Piscataway BOE, on a political piece distributed in the election community without disclaimer that the piece was respondent's personal endorsement and not an official position or action of the Piscataway BOE; and whether the content of the distributed political piece bears on the violation or the penalty to be imposed if the distribution itself violates the above provisions.

The matter must be reviewed in the context of a contested partisan primary election in which civility appears to have been left off the ballot. The question is whether the respondent's conduct rose to the level of a violation of the Code of Ethics or whether it should be considered as over-exuberant electioneering or campaigning, which violation would belong in a different forum.

A member of a local board of education holds a position of public trust. The Legislature has declared:

In our representative form of government it is essential that the conduct of members of local boards of education and local school administrators hold the respect and confidence of the people. These board members and administrators must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

[N.J.S.A. 18A:12-22(a).]

A full understanding of the parameters of ethical conduct for board members can be achieved only with training and experience. The formal Code of Ethics offers guidance to members of local boards as follows:

e. I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

f. I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

g. I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

[N.J.S.A. 18A:12-24.1 (emphasis added).]

The essence of the Code of Ethics is perhaps best summarized by the language in N.J.S.A. 18A:12-24.1(d), which describes the scope of the board member's role by stating that board members do not themselves run the public schools, rather, they see to it that the schools are well run.

The complainant has the burden of factually establishing a violation of the Code of Ethics. N.J.S.A. 18A:12-29(b); N.J.A.C. 6A:28-6.4. In this matter, violations of Code of Ethics sections (e), (f), and (g) are alleged to have been committed by respondent. The Administrative Code offers guidance in analyzing whether conduct rises to a violation of the Code of Ethics, as follows:

(a) For complaints alleging a violation of the code of ethics for school board members, the complainant has the burden to factually establish a violation in accordance with the standards set forth below:

5. Factual evidence of a violation of N.J.S.A. 18A:12-24.1(e) shall include evidence that the respondent made personal promises or took action

beyond the scope of his or her duties such that, by its nature, had the potential to compromise the board.

6. Factual evidence of a violation of N.J.S.A. 18A:12-24.1(f) shall include evidence that the respondent(s) took action on behalf of, or at the request of, a special interest group or persons organized and voluntarily united in opinion and who adhere to a particular political party or cause; or evidence that the respondent(s) used the schools in order to acquire some benefit for the respondent(s), a member of his or her immediate family or a friend.

7. Factual evidence of a violation of N.J.S.A. 18A:12-24.1(g) shall include evidence that the respondent(s) 3 N.J.A.C. 6A:28-6.4(a)(7) provides that factual evidence of a violation of the confidentiality provision of N.J.S.A. 18A:12-24.1(g) shall include evidence that the respondent(s) took action to make public, reveal or disclose information that was not public under any laws, regulations or court orders of this State, or information that was otherwise confidential in accordance with board policies, procedures or practices. Factual evidence that the respondent violated the inaccurate-information provision of N.J.S.A. 18A:12-24.1(g) shall include evidence that substantiates the inaccuracy of the information provided by the respondent(s) and evidence that establishes that the inaccuracy was other than reasonable mistake or personal opinion or was not attributable to developing circumstances.

[N.J.A.C. 6A:28-6.4.]

In determining whether a violation of N.J.S.A. 18A:12-24.1(e) has occurred, the evidence must demonstrate that the respondent made personal promises or took action beyond the scope of his or her duties such that, by its nature, had the potential to compromise the Piscataway BOE. In this matter, no proof has been presented that respondent made any personal promises. The question remains whether respondent's private action might have compromised the Piscataway BOE. His conduct in regard to the flyer were related to the election. While respondent's statements may have been distressing to the complainant, or to a certain portion of the public there was nothing in them to indicate that respondent's statements had the potential to compromise the board.

Respondent made no representation he had the capacity to act alone to bring about any Piscataway BOE action. Accordingly, the charge brought under this section has not been proven by a preponderance of the evidence.

In determining whether a violation of N.J.S.A. 18A:12-24.1(g) has occurred, the evidence must demonstrate that the respondent took action to make public, reveal or disclose information that was not public under any laws, regulations or court orders of this State, or information that was otherwise confidential in accordance with board policies, procedures or practices. Complainant presented no evidence of such a disclosure. Respondent maintains the use of the word “radical” is an opinion of complainant’s progressive leanings. Complainant presents its use is inflammatory, and anti-Islamic. This tribunal can make no such conclusion. The evidence is not there of any violation of N.J.S.A. 18A:12-24.1(g).

“Board members do not surrender the rights that they have as citizens such as freedom of speech when they become members of a school board. However, in exercising those rights, board members must comply with the School Ethics Act. In I/M/O Eileen Quinn, C45-04, (February 7, 2005), Commissioner decision (March 23, 2005), the Commission found that a board member violated N.J.S.A. 18A:12- 24.1(e) when she printed and distributed a flier during her reelection campaign which contained incomplete fiscal information regarding the tax impact of the board’s budget. The Commission found the board member took private action that compromised the board because the information in the flier was misleading and because the flier, distributed prior to passage of the budget, was designed to have an impact on the budget, which was defeated by a slim margin. While the board member did not give up her right to participate in political activity, the Legislature has established specific standards to guide the conduct of board members to ensure and preserve public confidence. See: N.J.S.A. 18A:12-22. These standards are set forth at N.J.S.A. 18A:12-24 and N.J.S.A. 18A:12-24.1. Board members, in exercising their right to participate in political activity, must ensure that the activity does not violate those standards.” See, Advisory Opinion A02-06.

The violative conduct of the respondent was to fail to note a disclaimer on the flyer that his reference to the Piscataway BOE did not connote any action by the Piscataway BOE, but rather he personally. Consistent with guidance provided by Advisory Opinion 36-14, respondent failed to include such a disclaimer. Respondent’s actions were in contravention of that Advisory Opinion.



Respondent's consent to the distribution of the flyer, without specifically including a disclaimer it represented his personal conduct and not the endorsement of the Piscataway BOE, rises to the level of a violation of the Code of Ethics N.J.S.A. 18A:12-24.1(f), for school board members.

I therefore **CONCLUDE** that respondent, Nitang Patel, has violated N.J.S.A. 18A:12-24.1(f) of the Code of Ethics.

### **PENALTY**

Respondent first began to serve on the Piscataway BOE in January 2019. Respondent maintains his actions in failing to include the disclaimer was an oversight. The combination of his limited time of service, absence of any prior violation, and representation the action was an oversight indicates that the appropriate penalty is to **REPRIMAND** Nitang Patel for his participation in the distribution of the flyer.

### **ORDER**

I **ORDER** that the complaint filed by complainant Atif Nazir against respondent Nitang Patel for violation of the N.J.S.A. 18A:12-24.1(e) be **DISMISSED**.

I **ORDER** that the complaint filed by complainant Atif Nazir against respondent Nitang Patel for violation of the N.J.S.A. 18A:12-24.1(g) be **DISMISSED**.

I **ORDER** that the complaint filed by complainant Atif Nazir against respondent Nitang Patel for violation of the N.J.S.A. 18A:12-24.1(f) be **GRANTED**.

I **ORDER** that the penalty against respondent Nitang Patel for violation of the N.J.S.A. 18A:12-24.1(f) be a **REPRIMAND**.

In accordance with N.J.A.C. 6A:28-6.6 the Commission is required to "hold all information confidential regarding any pending matter until it first takes action at a public

meeting to determine probable cause, or violation, or until the matter is settled, withdrawn or dismissed . . . .” As the Commission has not yet taken action on this matter, it should presently remain confidential, as the regulation requires. Accordingly, I **FURTHER ORDER**, pursuant to N.J.A.C. 1:1-4.1, that the entire record in the matter, including all evidence, the stenographic notes or audiotape, and the Initial Decision are hereby sealed pending further action by the Commission. No one, including the parties and attorneys, shall disclose or permit access to the record, Initial Decision or any portion thereof, to any person or entity other than the parties, attorneys for the parties, and personnel employed by the OAL or the School Ethics Commission and the Department of Education.

I hereby **FILE** my initial decision with the **SCHOOL ETHICS COMMISSION**. Pursuant to N.J.S.A. 18A:12-29, the School Ethics Commission has jurisdiction to determine whether a violation of the School Ethics Act occurred. If it concludes that the conduct constitutes a violation of the School Ethics Act, it shall recommend an appropriate penalty to the Commissioner of Education. The Commissioner of Education shall issue the final decision in this matter.

If the School Ethics Commission determines that a violation has occurred, it shall issue a written decision recommending to the Commissioner of Education an appropriate penalty and shall forward the record, including this recommended decision and its decision, to the Commissioner of Education. The Commissioner of Education may subsequently render a final decision as to the appropriate penalty. If the Commissioner of Education does not render a final decision within forty-five days of its receipt of this initial decision, and unless such time period is otherwise extended, the recommended decision of the School Ethics Commission shall become the final decision.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SCHOOL ETHICS COMMISSION, DEPARTMENT OF EDUCATION, PO Box 500, Trenton, NJ 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



March 11, 2021

DATE

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**JOSEPH A. ASCIONE, ALJ**

Date Received at Agency:

Date Mailed to Parties:

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**APPENDIX**

**LIST OF WITNESSES**

**For complainant:**

Atif Nazir, complainant

Darshni Patel, a college student (no relation to respondent)

Aman Javaid, a graduating Senior

**For respondent:**

None

**LIST OF EXHIBITS**

**For Complainant:**

P-1 Flyer and Translation

**For Respondent:**

None