

78-22SEC

SEC Dkt No. C68-20

OAL Dkt. No. EEC 04009-21

Agency Dkt. No. 65-2/22

New Jersey Commissioner of Education

Final Decision


In the Matter of James Morgan, Ridgewood
Board of Education, Bergen County.

The Commissioner has reviewed the record of this matter and the February 25, 2022 decision of the School Ethics Commission (Commission). The Commission found that respondent, a member of the Ridgewood Board of Education, violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, and *N.J.S.A. 18A:12-24.1(g)* in connection with public comments that he made regarding litigation filed by a fellow Board member and his failure to recuse himself from executive session discussing the litigation. The Commission recommended a penalty of censure for the violations. The Commission's decision was forwarded to the Commissioner for final determination on the recommended penalty pursuant to *N.J.S.A. 18A:12-29(c)*. Respondent has neither filed exceptions to the recommended penalty nor instituted an appeal, pursuant to *N.J.A.C. 6A:4-1 et seq.*, of the Commission's underlying finding of violation.

Upon review, the Commissioner concurs with the penalty recommended by the Commission for respondent's actions.

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

IT IS SO ORDERED.¹


ANGELINA ALLEN McMILLAN, J.D.S.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 14, 2022
Date of Mailing: April 14, 2022

¹ 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.

Before the School Ethics Commission
OAL Docket No.: EEC-04009-21
SEC Docket No.: C68-20
Final Decision

Laurie Weber,
Complainant

v.

James Morgan,
Ridgewood Board of Education, Bergen County,
Respondent

I. Procedural History

This matter arises from a Complaint that was filed on November 4, 2020 by Laurie Weber (Complainant) alleging that James Morgan (Respondent) violated *N.J.S.A.* 18A:12-24(b) and (c), and *N.J.S.A.* 18A:12-24.1(g) (in Count 1) and *N.J.S.A.* 18A:12-24(b) and (c) (in Count 2) because he made public comments about a Board candidate's lawsuit against the Board related to a denied OPRA request for documents, including Respondent's official email information, and then Respondent attended the executive session meetings regarding the litigation. At its meeting on February 23, 2021, the Commission voted to deny the Motion to Dismiss in its entirety; found the Complaint was not frivolous; denied Respondent's request for sanctions and directed Respondent to file an Answer to the allegations. On March 9, 2021, Respondent filed an Answer denying any allegations of unethical conduct. On April 27, 2021, the Commission found probable cause to credit the allegations that Respondent violated *N.J.S.A.* 18A:12-24(b) and (c) in Counts 1 and 2, and *N.J.S.A.* 18A:12-24.1(g) in Count 1, and transmitted the matter to the OAL.

On May 27, 2021, the Honorable Nanci G. Stokes, Administrative Law Judge (ALJ Stokes), conducted telephone conferences to discuss "needed discovery." "Subsequently, the parties agreed that the material facts were largely undisputed, and a motion for summary decision could be appropriate." On August 25, 2021, the parties presented a joint stipulation of facts and ALJ Stokes "set a motion schedule as no hearing was necessary to resolve the facts or legal issues presented." On October 15, 2021, Respondent and Petitioner (Commission) "filed their motions for summary decision, including supporting certifications and briefs." Neither party submitted a response and, therefore, on November 4, 2021, ALJ Stokes closed the record.

ALJ Stokes issued an *Initial Decision* on December 1, 2021. Thereafter, on December 14, 2021, Respondent filed Exceptions to ALJ Stokes' *Initial Decision*, and Petitioner filed a response to Respondent's Exceptions on January 5, 2022.

At its meeting on January 25, 2022, the Commission considered the full record in this matter, including the filed Exception and the filed reply. Thereafter, and at a special meeting on

February 25, 2022, the Commission voted to adopt the findings of fact from ALJ Stokes' *Initial Decision*; to adopt the legal conclusion that, based on the admissible evidence, there is sufficient credible evidence to establish a violation of *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24.1(g) of the Code; and to adopt the recommended penalty of censure.

II. Initial Decision

In the *Initial Decision*, ALJ Stokes offered the following *findings of fact*:

1. Respondent is a former Board member.
2. Respondent was the Board Vice President for the 2019-2020 Board year.
3. Respondent's term as a Board member expired in May 2020 and he did not seek re-election.
4. On May 4, 2020, the Board held a regularly scheduled public meeting.
5. The Board notified that it would be holding another meeting on May 7, 2020, to discuss the status of a pending legal matter and a matter pertaining to pupil/personnel.
6. The legal matter concerned an OPRA lawsuit that was filed by Saurabh Dani, a candidate for the Board's upcoming elections on May 12, 2020.
7. Specifically, the legal matter related to whether Board members ever configured their email settings in a manner that would allow them to retrieve Board emails on non-Board devices or non-Board email accounts.
8. The only named respondent parties to the OPRA litigation were the Board and the Board Secretary, who is also the official custodian of public records for the Board.
9. While Respondent was not a named party to the OPRA lawsuit, the information that was being requested pertained to his personal devices and email accounts.
10. On March 13, 2020, after hearing oral arguments by counsel of the parties in the OPRA lawsuit, and after consideration of written submission, the ALJ entered an order whereby the Board must produce certifications from Board members Morgan and Brogan "attesting to the manner in which they access emails from any and all non-Board devices and/or non-Board email accounts.
11. In the March 13 Order, the ALJ also determined that Mr. Dani was entitled to "attorneys' fees and costs," and ordered that the parties' counsel attempt to agree upon a reasonable amount of fees.
12. It was also determined that if the "parties failed in their attempt to negotiate reasonable attorneys' fees and costs, [Mr.] Dani's attorney would submit a certification of service within fourteen days of the March 13, 2020, Order, and the Board would render a response within twenty-one days of same Order."
13. At the May 7, 2020, special Board meeting, Board member Smith-Wilson advised that she had received some questions when notification of that day's meeting went out, she did not provide an answer about the notification, and instead explained the Board had two matters to discuss in executive session, one matter required action by the Board and, therefore, needed to be public.
14. Board member Smith-Wilson then made a motion to go into executive session to discuss matters related to litigation and a separate matter pertaining to pupil/personnel. Board member Smith-Wilson further advised the public that

- although the Board is not taking action on the litigation matter in executive session, the Board can take action related to the pupil/personnel matter in executive session.
15. Board member Smith-Wilson did not disclose the identity of the Complainant in the matter nor did she divulge the substance of the complaint.
 16. Board member Brogan seconded the motion to go into executive session.
 17. After the motion was moved and seconded, Respondent opposed the motion and requested to read a statement to the public via Zoom.
 18. Respondent first stated he did not object to discussing the pupil/personnel matter in executive session; however, he did object to discussing the litigation matter in executive session, which he divulged pertained to a settlement proposal that was brought to the Board by the attorney of one of the candidates who was running for a seat on the Board in next week's election.
 19. Respondent publicly commented that based on his personal knowledge of the facts and the advice of the Board attorneys, the Board opposed the lawsuit and that none of the material being sought in the lawsuit existed.
 20. Respondent then claimed that the judge in the litigation matter asked the Board for additional information, which the Board supplied, but to date, has not issued an opinion on the lawsuit and that serious questions remain about the future of this case.
 21. Respondent then divulged that the candidate's lawsuit against the Board was based on an OPRA claim, which permits the plaintiff's attorneys to request the District to pay their legal fees, if the Board is found to be in violation of the law.
 22. In his public statement, Respondent also asserted that the Board has not yet been ordered to pay attorney's fees and that it was far from certain that such fees would be awarded.
 23. Respondent claimed that because the candidate did not want to have pending litigation that would disqualify him from taking a seat on the Board should he be elected, the candidate's attorney approached the Board to propose that the Board pay \$6,674.45 in attorney's fees in exchange for the candidate dismissing the OPRA claims.
 24. Respondent expressed that it was his personal opinion that because the Board cannot take actions on litigation matters during executive session, the legal matter involving the candidate for a seat on the Board should be discussed in public since the Ridgewood taxpayers had a right to know how the Board is spending its funds.
 25. No one else on the Board made any public comments.
 26. On January 30, 2020, the Record newspaper and at least one local blog site previously reported on the OPRA litigation.

Based on the documents submitted in support of and in opposition to the motions for summary decision, ALJ Stokes also issued the following *findings of fact*:

27. In response to the March 13, 2020, Order, Respondent Morgan and Board member Brogan supplied certifications to Mr. Dani on March 17, 2020, after an unresolved deficiency letter, Mr. Dani filed a motion to enforce litigant's rights, maintaining Board member Brogan and Respondent Morgan failed to adhere to Judge Mizdol's Order requirements. Mr. Dani sought an award of attorney's fees and costs, and his counsel provided a certification of attorney services to Judge Mizdol.

28. On May 11, 2020, Respondent publicly posted that his and Board member Brogan's emails were the subject of Mr. Dani's lawsuit.
29. On May 14, 2020, Judge Mizdol entered an Order finding the Board violated litigant's rights, ordered the Board's compliance with sections 1(c) and (d) of the March 13, 2020, Order, and entered judgment against the Board for reasonable counsel fees and costs.
30. At the Board meeting on May 18, 2020, Board member Smith-Wilson, motioned for an executive session to discuss the litigation and a personnel issue. Before the executive session, Respondent again stated that the Board should discuss the litigation publicly because it "involves a candidate for the Board of Education" Board member Brogan advised she would recuse herself from the executive session concerning the litigation, but Respondent did not. Upon return to the public meeting, Board member Smith-Wilson reported that both Respondent and Board member Brogan recused themselves from the executive session concerning the litigation. The Board discussed the "next steps" to the litigation, and Board member Mahmoud motioned to appeal the recent court decision and not resolve the case. Neither Board member Brogan nor Respondent participated in the vote on the motion.

With the above in mind, ALJ Stokes made the following *conclusions of law*: in this present matter a "genuine issue" of material facts does not exist, and the only issues presented are whether Respondent's public comments before the May 7 and May 18, 2020, executive sessions, his failure to recuse himself from the May 7, 2020, executive session, and/or his failure to recuse himself before going into the May 18, 2020, executive session are violations of *N.J.S.A. 18A:12-24(b), (c)* and/or *N.J.S.A. 18A:12-24.1(g)* and if so, what sanction is appropriate. ALJ Stokes notes, "no genuine issue exists" that Respondent served as the Board Vice President when he made public comments concerning the litigation, including its status and subject matter and his belief that the Board should discuss the litigation publicly; the litigation against the Board concerned a denied OPRA request by a Board candidate seeking Respondent's and Board member Brogan's official email accounts' forwarding settings to determine if either individual was sharing Board information to their non-Board electronic devices; Respondent did not recuse himself from the executive discussion on May 7 and although Board member Smith-Wilson reported that Respondent recused himself from discussion during the May 18 executive session, Respondent did not recuse himself before the executive session as Board member Brogan did. Therefore, ALJ Stokes *concludes* this case is ripe for summary discussion.

ALJ Stokes asserts, Respondent's comments against Mr. Dani and "his lawsuit against the Board damaged [Mr.] Dani's reputation and created an unfair advantage to other candidates of [Respondent's] choosing in violation of *N.J.S.A. 18A:12-24(b)*." Moreover, "Because a member of the public hearing [Respondent's] comments could reasonably believe that [Respondent] intended his statements to influence the election in favor of other candidates," ALJ Stokes *concludes* a preponderance of the evidence exists that Respondent violated *N.J.S.A. 18A:12-24(b)*, and moreover, the fact that Mr. Dani secured a Board seat in the election is immaterial as the Commission only needed to find the school official attempted to secure unwarranted privileges for another.

ALJ Stokes further asserts that Respondent was personally involved in the litigation and the Court required him to disclose personal information about his email and devices; however, Respondent did not recuse himself from the executive session discussions on May 7, 2020, even though he was the subject of the Order. Furthermore, on May 18, 2020, Respondent went in to executive session, without first recusing himself (as Board member Brogan did). Although the meeting minutes reflect that Respondent later recused himself from discussion, Board member Smith-Wilson did not report this until after the executive session. ALJ Stokes notes the problem arises when the school official “has an interest not shared in common with the rest of the public”; therefore, ALJ Stokes **concludes** a preponderance of the evidence exists that Respondent had, at minimum, an “indirect personal interest” in the outcome of the litigation. ALJ Stokes further notes the OPRA lawsuit involved Respondent’s email and devices and, therefore, ALJ Stokes further **concludes** “that a member of the public could justifiably believe that [Respondent’s] objectivity was impaired when discussing the litigation, a resolution of the lawsuit, or the Board’s ‘next steps’ concerning the case.”

ALJ Stokes maintains that Respondent should have recused himself from the discussion on May 7 and before entering executive session on May 18. According to ALJ Stokes, the Board moved to appeal the May 14, 2020, Order directing Respondent to supply the information he previously failed to provide and this action created a benefit for Respondent; therefore, ALJ Stokes **concludes** that Respondent acted in his official capacity on both dates in a matter where he had personal involvement and received a benefit in violation of *N.J.S.A. 18A:12-24(c)*.

ALJ Stokes contends that the Record reported the litigation and its subject or the OPRA request made by Mr. Dani in January 2020, making it public. Moreover, documents filed with the Superior Court are also available to the public. According to ALJ Stokes, the March 13 Order notes that the information sought was related to Board member Brogan’s and Respondent’s email accounts and devices. Mr. Dani’s counsel supplied an attorney certification of services to the court and sought an award of attorney’s fees and costs, thereby making it public. Therefore, ALJ Stokes **concludes** a preponderance of the evidence does not exist that Respondent made the information public. However, ALJ Stokes **concludes** that Respondent’s public comments on May 7, against litigant candidate Mr. Dani and the lawsuit’s status were inaccurate and misleading. More specifically, on May 7 Respondent advised the public that the judge had not yet issued an opinion on the case or that the judge had not yet ordered the District to pay Mr. Dani’s attorney’s fees when in fact on March 13, 2020, Judge Mizdol found Mr. Dani to be a prevailing party and that the Board owed Mr. Dani attorney’s fees and costs associated with the OPRA litigation. Furthermore, Judge Mizdol also ordered that Respondent and Board member Brogan provide certifications as to their email used and forwarding settings. In addition, Judge Mizdol directed the parties to resolve the issue of fees and costs, or she would decide the fee amount after receiving submission on fees. ALJ Stokes notes on March 17, 2020, Respondent and Board member Brogan supplied Mr. Dani with certifications, which demonstrate that Respondent was aware of the Order on March 13, 2020. Contrary to Respondent’s statement, an “award of fees was not an ‘if’” regardless of whether the Board later appealed, and Mr. Dani was not “senselessly” demanding materials that “did not exist.”

ALJ Stokes further contends on May 7, 2020, Respondent also stated the settlement offer scheduled for discussion by the Board was so that Mr. Dani would not have pending litigation

against the Board that would disqualify him from office and that Mr. Dani sought attorney's fees in exchange for a dismissal of the OPRA claims. However, Respondent's statements were misleading because the March 13 Order concluded that Mr. Dani's counsel was entitled to fees and the Board members' certifications, were not a dismissal in exchange for those fees. Furthermore, Respondent believed the Board should discuss the matter publicly because Ridgewood residents had the right to know how the Board spent its "limited resources." ALJ Stokes maintains Respondent made a similar comment at the May 18 meeting, and he was incorrect. According to ALJ Stokes, the Board should only discuss litigation matters in executive session, not in public and even if Respondent, as a "seasoned [B]oard member, and its vice-president, incredibly believed that the Board could publicly discuss litigation against the [B]oard, his public statements should have been accurate." Therefore, ALJ Stokes concludes that a preponderance of the evidence exists that Respondent violated *N.J.S.A.* 18A:12-24.1(g). ALJ Stokes notes Respondent's preface that his statements were "in his opinion" appropriately made public does not excuse the inaccuracies of those comments as a mistake, a personal opinion, or because of developing circumstances.

Having found Respondent violated *N.J.S.A.* 18A:12-24(b), (c) and *N.J.S.A.* 18A:12-24.1(g) and because Respondent is no longer a Board member, ALJ Stokes **concludes** that **censure** is an appropriate penalty. ALJ Stokes maintains Respondent did not vote upon or execute a settlement agreement; Mr. Dani's complaint was not against Respondent individually; Respondent inaccurately commented on litigation in public on May 7 and May 18; Respondent attended the May 7 executive session; went in to the May 18 executive session without recusing himself, knowing the Board was going to discuss action regarding Mr. Dani's OPRA lawsuit; Board member Smith-Wilson publicly advised the subject matter of both executive session and ALJ Stokes concluded that Respondent had a personal involvement and interest in the outcome of the litigation. ALJ Stokes notes Respondent's conduct fell short of his ethical obligations as a Board member.

ALJ Stokes **orders** that Complainant's motion for summary decision is granted and Respondent's motion for summary decision is denied and **orders** that Respondent be **censured**.

III. Exceptions

Respondent's Exceptions

In his Exceptions, which were filed on December 14, 2021, Respondent initially argues that ALJ Stokes' "conclusion and imposed penalty are improper and too severe under the circumstances." Respondent continues to deny that he violated the Act and notes that even "if the facts as alleged constitute violations," a censure "is not an appropriate penalty."

As to a violation of *N.J.S.A.* 18A:12-24(b) (Counts 1 and 2), Respondent maintains and ALJ Stokes concurs that Respondent "recused [himself] from the executive session concerning the litigation," on May 18, 2020, and "there are no facts suggesting that Respondent took any action such [as] a vote in favor of settling the litigation matter" on May 7, 2020, contrary to the respondents as cited in Friends and Somerville. Regarding the violation of *N.J.S.A.* 18A:12-24(c) (Count 1 and 2), Respondent reasserts the statements he made before the executive sessions were

“for the benefit of the public and due to his personal opinion.” Respondent contends that his statements were made to “reinforce public trust rather than to violate it.” As to a violation of *N.J.S.A.* 18A:12-24.1(g) (Count 1), Respondent maintains that “holding [him] liable for violating the inaccurate information provision is unacceptable because it is holding him to the standard of a practicing attorney, and fails to consider that the inaccurate information provision has safe-harbors for inaccurate information told due [to] ‘reasonable mistake or personal opinion, or was not attributable to developing circumstances.’” Respondent asserts his statements at the Board meetings were due to either reasonable mistake or personal opinion and, therefore, Respondent did not violate *N.J.S.A.* 18A:12-24.1(g).

Turning to the penalty, Respondent argues ALJ Stokes cites several cases, namely, Grimsley, Rodriguez, Kilmurray, Famularo and Friends, all of which, according to Respondent, involve “aggravating circumstances” that are not contained in the present matter. Respondent once again notes he did not vote on the litigation matter and maintains the Commission “seems to give some leeway” to individuals who operate under “false belief” and who make mistakes. Therefore, Respondent asserts the appropriate penalty is reprimand because his conduct “falls far short of the conduct included in the cases cite by” ALJ Stokes.

Complainant’s Reply to Respondent’s Exceptions

In Petitioner’s (SEC) Reply to Respondent’s Exceptions, Petitioner maintains the *Initial Decision* is “well reasoned, amply supported by evidence, and should be adopted in its entirety.”

Petitioner argues that ALJ Stokes’ finding that Respondent violated *N.J.S.A.* 18A:12-24(b) is correct. Petitioner maintains the “record shows that Respondent’s comments were not just limited to informing the public about the nature of the OPRA lawsuit,” as Respondent claims, nor “did they solely pertain to his opinion that the public should be more informed about lawsuits that may result in expenditure of their tax dollars.” Petitioner asserts that Respondent’s explanations “do nothing to dispute the fact that he publicly ‘proceeded to denigrate the merits of [Mr.] Dani’s claims and any expenditure of Ridgewood’s resources on the lawsuit.’” As to a violation of *N.J.S.A.* 18A:12-24(c), Petitioner argues once again ALJ Stokes’ findings were correct. Petitioner notes ALJ Stokes accurately concluded that “because the OPRA lawsuit specifically sought an order that would ‘require[] [Respondent] to disclose personal information about his email and devices ... a preponderance of the evidence exists that [he] had at a minimum an indirect personal interest’ in the outcome of the litigation, which a public member could justifiably believe would impair his objectivity during executive sessions ‘when discussing the litigation, a resolution of the lawsuit, or the Board’s next steps concerning the case.’”

As to a violation of *N.J.S.A.* 18A:12-24.1(g), Petitioner contends ALJ Stokes’ finding that “Respondent could not preface his demonstrably inaccurate statements as being the result of a mistake, personal opinion, or developing circumstances” is appropriate.

Finally, Petitioner agrees that the penalty of censure is appropriate. Petitioner asserts ALJ Stokes’ conclusion that Respondent violated *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24.1(g), as well as “finding that said violations warrant a penalty of censure, should both be adopted.”

IV. Analysis

Upon a careful, thorough, and independent review of the record, the Commission **adopts** ALJ Stokes' findings of fact, and **adopts** the legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(b), and *N.J.S.A.* 18A:12-24(c), and *N.J.S.A.* 18A:12-24.1(g).

In finding a violation of *N.J.S.A.* 18A:12-24(b), ALJ Stokes properly concluded that Respondent's comments against Mr. Dani and "his lawsuit against the Board damaged [Mr.] Dani's reputation and created an unfair advantage to other candidates of [Respondent's] choosing in violation of *N.J.S.A.* 18A:12-24(b)." Moreover, "Because a member of the public hearing [Respondent's] comments could reasonably believe that [Respondent] intended his statements to influence the election in favor of other candidates," ALJ Stokes **concludes** a preponderance of the evidence exists that Respondent violated *N.J.S.A.* 18A:12-24(b), and moreover, the fact that Mr. Dani secured a Board seat in the election is immaterial as the Commission only needed to find the school official attempted to secure unwarranted privileges for another.

In finding a violation of *N.J.S.A.* 18A:12-24(c), ALJ Stokes properly concluded that Respondent should have recused himself from the Executive Session discussions on May 7, 2020 and May 18, 2020, and because Respondent had, at minimum, an "indirect personal interest" in the outcome of the litigation. ALJ Stokes further notes the OPRA lawsuit involved Respondent's email and devices and, therefore, ALJ Stokes further **concludes** that a member of the public could justifiably believe that Respondent's objectivity was impaired when discussing the litigation, a resolution of the lawsuit, or the Board's "next steps" concerning the case."

In finding a violation of *N.J.S.A.* 18A:12-24.1(g), ALJ Stokes properly concluded that Respondent's misleading public comments regarding the proposed settlement offer, which should have been discussed in Executive Session and not in public despite Respondent's preface that his statements were his opinion.

V. Decision

The Commission adopts ALJ Stokes' *Initial Decision* finding that Respondent violated *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), and *N.J.S.A.* 18A:12-24.1(g).

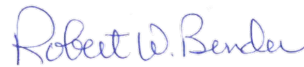
VI. Penalty

For the reasons set forth by ALJ Stokes in her *Initial Decision*, the Commission **adopts** the recommended penalty of **censure**.

Pursuant to *N.J.S.A.* 18A:12-29(c), this decision shall be forwarded to the Commissioner for review of the Commission's recommended sanctions. Parties may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's findings of violations of the Act; or 3) file both exceptions to the recommended sanction and an appeal of the Commission's findings of violations of the Act.

Parties taking exception to the recommended sanctions of the Commission but *not disputing* the Commission's findings of violations may file, within **thirteen (13) days** from the date the Commission's decision is forwarded to the Commissioner, written exceptions regarding the recommended sanctions to the Commissioner. The forwarding date shall be the mailing date to the parties, as indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, New Jersey 08625, marked "Attention: Comments on Ethics Commission Sanction." A copy of any comments filed must be sent to the Commission and all other parties.

Parties seeking to appeal the Commission's findings of violations *must* file an appeal pursuant to the standards set forth at *N.J.A.C. 6A:4, et seq.* within **thirty (30) days** of the filing date of the decision from which the appeal is taken. The filing date shall be three (3) days after the mailing date to the parties, as indicated below. In such cases, the Commissioner's review of the Commission's recommended sanctions will be deferred and incorporated into the Commissioner's review of the findings of violations on appeal. Where a notice of appeal has been filed on or before the due date for exceptions to the Commission's recommended sanction (thirteen (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 brief on appeal.



Robert W. Bender, Chairperson

Mailing Date: February 25, 2022

***Resolution Adopting Decision
in Connection with C68-20***

Whereas, by correspondence dated April 27, 2021, the School Ethics Commission (Commission) transmitted the above-referenced matter to the Office of Administrative Law (OAL) for a hearing; and

Whereas, at the OAL, both Respondent and Complainant filed Motions for Summary Decision; and

Whereas, the Honorable Nanci G. Stokes, Administrative Law Judge (ALJ Stokes) issued an *Initial Decision* dated December 1, 2021; and

Whereas, in the *Initial Decision*, ALJ Stokes ordered the Complaint filed by Complainant against Respondent be affirmed to the extent of the violations of *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, and *N.J.S.A. 18A:12-24.1(g)*; and

Whereas, on December 14, 2021, Respondent filed Exceptions to the *Initial Decision*; and

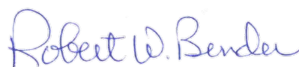
Whereas, on January 5, 2022, Complainant filed a reply to Respondent's Exceptions; and

Whereas, at its meeting on January 25, 2022, the Commission reviewed and discussed the record, including ALJ Stokes' *Initial Decision*, the filed Exceptions, and the filed reply; and

Whereas, at its meeting on January 25, 2022, the Commission discussed adopting the findings of fact from the *Initial Decision*, adopting the legal conclusion that Respondent violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, and *N.J.S.A. 18A:12-24.1(g)*, and adopting the recommended penalty of censure; and

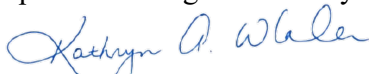
Whereas, at a special meeting on February 25, 2022, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on January 25, 2022; and

Now Therefore Be It Resolved, the Commission hereby adopts the within decision.



Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at a special meeting on February 25, 2022.



Kathryn A. Whalen, Esq.
Director, School Ethics Commission
(For Submission Only)