

New Jersey Commissioner of Education

Final Decision

Laurie Tietjen,

Complainant,

v.

Pamela Rogers, Robin Stella, and Nicholas
Di Franco, Middletown Township Public
Schools Board of Education, Monmouth
County,

Respondent.

Synopsis

Complainant alleged, *inter alia*, that respondent Pamela Rogers, a member of the Middletown Township Public Schools Board of Education, violated *N.J.S.A. 18A:12-24(a)*, *N.J.S.A. 18A:12-24.1(b)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(f)*, and *N.J.S.A. 18A:12-24.1(j)* of the School Ethics Act, *N.J.S.A. 18A:12-21 et seq* through actions she took relating to the planning of a rally on school grounds that was not a Board-sponsored event, including the use of her Board email account in a politically motivated way. The School Ethics Commission (SEC) determined that the respondent's actions violated *N.J.S.A. 18A:12-24.1(e)* and *N.J.S.A. 18A:12-24.1(f)* of the Code of Ethics for School Board Members, and recommended a penalty of reprimand for the violations.

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. Accordingly, the respondent shall be reprimanded 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.

330-23SEC
SEC Dkt. No. C59-20
OAL Dkt. No. EEC 02706-21
Agency Dkt. No. 259-9/23

New Jersey Commissioner of Education
Final Decision

Laurie Tietjen,

Complainant,

v.

Pamela Rogers, Robin Stella, and Nicholas
Di Franco, Middletown Township Public
Schools Board of Education, Monmouth
County,

Respondents.

The Commissioner has reviewed the record of this matter and the September 26, 2023 decision of the School Ethics Commission (Commission). The Commission found that respondent Pamela Rogers, a member of the Middletown Township Public Schools Board of Education (Board), violated *N.J.S.A. 18A:12-24.1(e)* and *N.J.S.A. 18A:12-24.1(f)* of the Code of Ethics for School Board Members. The Commission recommended a penalty of reprimand for the violation. 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)*.¹ Respondent

¹ The Commission dismissed the complaint as to respondents Robin Stella and Nicholas DiFranco. Because *N.J.S.A. 18A:12-29(c)* only authorizes the Commissioner to act on the Commission's recommendation regarding sanctions, the portion of the Commission's decision dismissing the complaint as to Stella and DiFranco is not at issue here.

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 in using her Board email to plan a rally that was not a Board-sponsored event.

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

IT IS SO ORDERED.²


ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 2, 2023
Date of Mailing: November 3, 2023

² 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 02706-21
SEC Docket No.: C59-20
Final Decision

**Laurie Tietjen,
Complainant**

v.

**Pamela Rogers, Robin Stella, and Nicholas DiFranco,
Middletown Township Public Schools Board of Education, Monmouth County,
Respondents**

I. Procedural History

This matter arises from a Complaint that was filed on October 2, 2020,¹ by Laurie Tietjen (Complainant), alleging that Pamela Rogers (Respondent Rogers), Robin Stella (Respondent Stella), and Nicholas DiFranco (Respondent DiFranco) (collectively referred to as Respondents), members of the Middletown Township Public Schools Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* The Complaint alleges that Respondents violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24.1(a) in Count 1, *N.J.S.A.* 18A:12-24.1(b) in Count 2, *N.J.S.A.* 18A:12-24.1(e) in Count 3, *N.J.S.A.* 18A:12-24.1(f) in Count 4, and *N.J.S.A.* 18A:12-24.1(j) in Count 5.

At its meeting on February 23, 2021, and after reviewing Respondents' Motion to Dismiss in Lieu of Answer (Motion to Dismiss) and Complainant's response thereto, the Commission voted to grant the Motion to Dismiss as to the allegations in Count 1, Count 2, and Count 5, but to deny the Motion to Dismiss as to the allegations in Count 3 and Count 4. Based on its decision, the Commission also voted to direct Respondents to file an Answer to Complaint (Answer) as to the remaining allegations (Count 3 and Count 4). In light of the fact that the remaining allegations in the Complaint only involve violations of the Code of Ethics for School Board Members (Code), the Commission additionally voted to transmit the matter to the Office of Administrative Law (OAL) following receipt of the Answer, which Respondents filed on March 5, 2021.

A hearing was held at the OAL on July 19 and September 26, 2022. Thereafter, the Administrative Law Judge (ALJ) issued an Initial Decision on July 12, 2023. Respondent Rogers

¹ On October 2, 2020, Complainant filed a deficient Complaint; however, on October 6, 2020, Complainant cured all defects and filed an Amended Complaint that was deemed compliant with the requirements detailed in *N.J.A.C.* 6A:28-6.3.

filed exceptions to the Initial Decision, in accordance with *N.J.A.C.* 1:1-18.4. Complainant did not file a reply.

At its meeting on August 22, 2023, the Commission considered the full record in this matter. Thereafter, at its meeting on September 26, 2023, the Commission voted to adopt the Initial Decision's legal conclusion that Respondent Rogers violated *N.J.S.A.* 18A:12-24.1(e) and *N.J.S.A.* 18A:12-24.1(f) and the recommended penalty of reprimand. Additionally, the Commission voted to adopt the Initial Decision's legal conclusion that Respondents Stella and DiFranco did not violate *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f), and to dismiss the Complaint against them.

II. Initial Decision

Spread Love Not Hate (SLNH) was an entity created for a short time to promote a cause regarding social justice. *Initial Decision* at 15. An SLNH "Unity Walk" was scheduled for June 28, 2020, at the Middletown North High School that, according to Complainant's testimony, "was advertised as 'no politics, no sides, no finger pointing' and would strive to 'erase all lines' in relation to police and the community." *Id.* at 4. Prior to the rally taking place, it was not discussed in public or approved at a Board meeting, voted on by the Board members, or submitted for public comment. *Id.* at 15. According to Respondent Rogers' testimony, a Board resolution was "not necessary" since the Superintendent authorized the march on school property, and the Superintendent asked her to contact the Board members to see if they agreed to the rally. *Id.* at 10. Respondent Rogers "polled" four Board members about the rally, and after a "majority" agreed, she "went ahead and reported to [the Superintendent] that the Board approved the rally, even though the rest of the Board members were not informed." *Id.* at 15.

While it is undisputed that the event was not Board-sponsored, according to Complainant, the school "promoted" the rally on its website, the Board and teachers "work[ed] the tables and marched," and the District paid for security. *Id.* at 5. Complainant also asserts that Respondent Rogers promoted the rally on her personal social-media page as a Black Lives Matter (BLM) rally. *Ibid.* Respondent Rogers acknowledged that she communicated with the SLNH members from her Board email account and used her Board Twitter account to promote the rally. *Id.* at 11. While it appears that the Superintendent coordinated the event, which included providing portable toilets and a sound system, Respondent Rogers was involved in the planning of the substance of the event. *Exhibits R-M, R-N, R-Q.* Respondent Rogers sent an email from her Board email account on June 17, 2020, to a Township administrator, requesting volunteers to speak at the rally, such as the police chief, Mayor, and Superintendent or pastors. *Exhibit R-H.* The email also sought donations of the stage, water bottles and a disc jockey. *Ibid.*

Prior to the rally, Respondent Rogers used her Board email account to write an email on June 11, 2020, to a contact at a political entity, the Progressive Democrats of New Jersey, to solicit help with the rally, stating:

Hey, My love! How are you? Just between you and me, there's a blm rally in the works for Middletown. Frank Meade (District resident, sophomore at Seton Hall studying political science and

phone banking for the progressive candidate in district 6) is running it. It'll be at high school north end of June. I told him I'd give you his number and maybe you could contact him w advice about the rally and/or making the dem club at seton hall more active. Thought you'd be a great mentor for Frank! [cell phone number]

[*Id.* at 6, 15-16.]

According to Complainant, about 125 students attended the rally, along with several adults, including teachers and Board members, and “the speeches ‘were mainly focused on the belief of police brutality and systemic racism.’” *Id.* at 4. Following the event, Respondent Rogers sent an email directing that a staff member “combat the false accusations against the [Board] members on social media,” further adding, “I don’t have the time to attend to this.” *Id.* at 16.

Respondent Stella had limited involvement with the rally. *Ibid.* According to Respondent Stella, she attended one planning meeting for the rally after Respondent Rogers asked her to attend in her place. *Id.* at 12. Respondent Stella testified that she did not engage in promoting the rally, by sending emails or otherwise. *Ibid.* Respondent Stella also stated the Board President (Respondent Rogers) polled the Board members about their approval of a rally, when normally there would be a vote by the Board as to whether an action requested by the Superintendent would be approved or not. *Id.* at 13.

Respondent DiFranco only attended the rally with his family and friends. *Id.* at 16. Except for attending the rally, Respondent DiFranco was not involved in the planning of the rally. *Ibid.*

With respect to *N.J.S.A.* 18A:12-24.1(e), the ALJ reiterates that the June 11, 2020, email that Respondent Rogers sent from her Board email account to her contact at the political entity demonstrates Respondent Rogers “clearly intended to hide information by virtue of her own words written in this email [(‘just between you and me’)], and dispels any argument made on her behalf that she was not politically motivated to assist an organized group.” *Id.* at 19. The evidence demonstrates Respondent Rogers “made personal promises or took private action that might compromise the Board in violation of *N.J.S.A.* 18A:12-24.1(e)”; and therefore, the ALJ concludes that Respondent Rogers violated *N.J.S.A.* 18A:12-24.1(e). *Id.* at 19-20. On the contrary, the evidence does not prove that Respondents Stella and DiFranco made personal promises or took any action that would compromise the Board, and therefore, the ALJ concludes Respondents Stella and DiFranco did not violate *N.J.S.A.* 18A:12-24.1(e). *Id.* at 20.

As to a violation of *N.J.S.A.* 18A:12-24.1(f), the ALJ asserts that Complainant has demonstrated that Respondent Rogers “took action on behalf of ... a special-interest group or persons organized and voluntarily united in opinion when she planned and promoted the rally and used her official [Board] email in order to accomplish her goals that were outside her [Board] duties”; and therefore, concludes Respondent Rogers violated *N.J.S.A.* 18A:12-24.1(f). *Ibid.* The ALJ further concludes Respondents Stella and DiFranco did not violate *N.J.S.A.*

18A:12-24.1(f) as they did not take action at the request of a special-interest group. *Ibid.* Therefore, the charges against Respondents Stella and DiFranco are dismissed. *Id.* at 21.

The ALJ recommends a penalty of **reprimand** for Respondent Rogers' violations of *N.J.S.A.* 18A:12-24.1(e) and *N.J.S.A.* 18A:12-24.1(f). *Ibid.*

III. Exceptions

Respondent Rogers' Exceptions

In her Exceptions, and as to a violation of *N.J.S.A.* 18A:12-24.1(e), Respondent Rogers argues that the Commission's Decision on the Motion to Dismiss determined that if Complainant could prove that "while acting in their official capacities ... Respondents *unilaterally authorized the use of District funds and/or resources ...*" a violation of *N.J.S.A.* 18A:12-24.1(e) may be sustained. However, Respondent Rogers further argues the evidence proves the expenditure of Board funds is done through the Business Administrator and the Superintendent, with the Board approving the same after the fact. Respondent notes the ALJ found a violation of *N.J.S.A.* 18A:12-24.1(e) based on an email that Respondent Rogers sent to a political contact informing them of the event at the high school and concluded this email was "sufficient by itself" to prove that Respondent Rogers made personal promises or took private action that might compromise the Board. Respondent Rogers maintains she did not take any "unilateral actions" such as authorizing funds as the Commission indicated was necessary, Respondent Rogers' alleged political motivation is not "an element" to sustain a violation of *N.J.S.A.* 18A:12-24.1(e). Furthermore, according to Respondent Rogers, the evidence and witness testimony show that the SLNH rally had the full support of the administration. Respondent Rogers notes the Superintendent, Assistant Superintendent and the Business Administrator, were in communication with the rally organizers. Moreover, Respondent contends the evidence demonstrates that the Superintendent was the "driving force" behind the rally and Respondent Rogers was "involved, to a degree, in supporting the Administration meet its desired outcome." Respondent Rogers argues it was the administration that authorized the spending of District funds and allowed the SLNH group to use the sound system, not Respondent. According to Respondent Rogers, the Unity Walk was not a Board sponsored event, so it was not beyond the scope of Respondent Rogers' duties to consult with the other Board members about the appropriateness of such an event. Therefore, Respondent Rogers contends, based on the arguments above, the ALJ erred in finding a violation of *N.J.S.A.* 18A:12-24.1(e).

As to a violation of *N.J.S.A.* 18A:12-24.1(f), Respondent Rogers argues, Complainant did not provide any evidence to demonstrate that Respondent Rogers "surrendered her independent judgment to a special interest group" Respondent Rogers further argues Complainant did not present any proof that indicates Respondent Rogers took any action on behalf of, or at the request of SLNH, or that they used the schools to gain a benefit for themselves or their families. Respondent Rogers contends despite the numerous emails and social media postings presented by Complainant alleging that SLNH was given preferential treatment, they do not support the allegation that Respondent Rogers took any action to effectuate the "supposedly preferential treatment." On the contrary, the evidence demonstrates that the Business Administrator and Superintendent were the individuals who approved the rally, allowed it to occur in the parking

lot, ensured that security was present and allowed the group to proceed without insurance. Therefore, based on the testimony and evidence, Respondent Rogers asserts the ALJ incorrectly found that Respondent Rogers violated *N.J.S.A.* 18A:12-24.1(f). As such, Respondent contends the Complaint against her should be dismissed.

IV. Analysis

Upon a careful, thorough, and independent review of the record, the Commission agrees with the ALJ's conclusion that Respondent Rogers violated *N.J.S.A.* 18A:12-24.1(e) and *N.J.S.A.* 18A:12-24.1(f) and the recommended penalty of reprimand. The Commission also concurs with the ALJ that Respondent Stella and Respondent DiFranco did not violate *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f), and the Complaint against them should therefore be dismissed.

Pursuant to *N.J.S.A.* 18A:12-24.1(e), a board member must recognize that authority rests with the board and a board member shall not make any personal promises or take any action that may compromise the board. Respondent Rogers sent a June 11, 2020, email from her Board email account to her contact at a known political entity, the Progressive Democrats of New Jersey. Within that email Respondent Rogers states, "just between you and me, there's a blm rally in the works for Middletown." Respondent Rogers misrepresents that there will be a BLM rally at the District, rather than a SLNH rally, which was advertised as "no politics." The wording of the email – "just between you and me" – demonstrates that Respondent Rogers is hiding information and/or attempting to hide information regarding the purpose of the rally. And the Commission agrees with the ALJ that the contents of Respondent's email sent from her Board email address suggest that Respondent was politically motivated in promoting the event. *Initial Decision*, at 15-16. Further, as Respondent Rogers sent this email from her Board email address, it gives the impression that her statements were on behalf of the Board, despite the representations that the event was not Board-sponsored, potentially comprising the Board. Additionally, Respondent Rogers' involvement in planning the Unity Walk, specifically the substance of the event, such as scheduling speakers and seeking donations – while using her Board email address, even though the event was not District-sponsored or approved by the Board – further compromises the Board because it appears as though the Board is sponsoring the event, requesting speakers, and asking for donations. The Commission is not convinced by Respondent Rogers' arguments in her exceptions that the Superintendent and Business Administrator were the driving force behind the event and her involvement was limited; the involvement of the Superintendent and Business Administrator are not the subject of this matter, and Respondent Rogers' involvement in planning the rally, an event that was not a Board-sponsored event, through the use of her Board email, was inappropriate. Moreover, the Commission will defer to the ALJ's credibility findings in which the ALJ found that Respondent was not "always straightforward, and at times provided elusive responses." *Id.* at 14. In making those observations, the ALJ found that, "Respondent reluctantly acknowledged, after persistent questioning by the complainant, that she sent emails from her BOE email to public officials and rally organizers before and after the rally" and "tried to excuse her behavior" by claiming she was complying with the Superintendent's wishes. *Ibid.* Clearly, the ALJ did not find Respondent's explanation plausible, and the Commission accepts that finding. For these reasons, the Commission finds Respondent Rogers violated *N.J.S.A.* 18A:12-24.1(e).

N.J.S.A. 18A:12-24.1(f) prohibits Board members from surrendering their judgment to special interest or partisan political groups or using the schools for personal gain or for the gain of friends. Respondent Rogers' June 11, 2020, email to her contact at the Progressive Democrats of New Jersey, alerted the political group of the event, claimed that there was going to be a BLM rally when it was not advertised as a BLM rally, and sought to connect the political entity with an SLNH organizer for advice and mentorship. The ALJ correctly found, and the Commission accepts, there is no question that Respondent Rogers was politically motivated in sending the email. She did not extend the invitation to all political groups or organizations, but rather only to one side. Respondent Rogers attempted to coordinate two aligned political groups for a common cause, while using her Board email account to do so. The Commission finds this conduct violates *N.J.S.A.* 18A:12-24.1(f).

The Commission agrees with the ALJ that Respondent Stella and Respondent DiFranco were not involved in the planning of the SLNH Rally as Respondent Stella went to one meeting at the request of Respondent Rogers, and Respondent DiFranco only attended the event; therefore, Respondents Stella and DiFranco did not *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f).

The Commission further agrees with the ALJ that a **reprimand** is the appropriate penalty for Respondent Rogers' violations of *N.J.S.A.* 18A:12-24.1(e) and *N.J.S.A.* 18A:12-24.1(f). Respondent Rogers' behavior in sending a politically motivated email and involving herself in the planning of an event that was not Board-sponsored, through the continued use of her Board email, is inappropriate behavior that cannot be condoned. However, it appears as though this is Respondent Rogers' first violation, and as such the Commission finds that a penalty of reprimand is appropriate.

IV. Decision

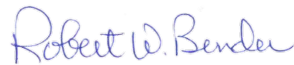
For all of the aforementioned reasons, the Commission adopts the Initial Decision of the OAL, which concludes that Respondent Rogers violated *N.J.S.A.* 18A:12-24.1(e) and 18A:12-24.1(f), and adopts the recommended penalty of **reprimand** for the violations. The Commission also adopts the Initial Decision's conclusion that Respondent Stella and Respondent DiFranco did not violate *N.J.S.A.* 18A:12-24.1(e) and/or 18A:12-24.1(f), and the dismissal of the Complaint against them.

Pursuant to *N.J.S.A.* 18A:12-29(c), this decision shall be forwarded to the Commissioner of Education for review of the Commission's recommended penalty. The parties may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission's finding of a violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of a violation.

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission's finding of a violation may file, **within thirteen (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, 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,” as well as to (ControversiesDisputesFilings@doe.nj.gov). A copy must also be sent to the Commission (school.ethics@doe.nj.gov) 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:4:1 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 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 (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 briefs on appeal.



Robert W. Bender, Chairperson

Mailing Date: September 26, 2023

**Resolution Adopting Decision
in Connection with C59-20**

Whereas, at its meeting on February 23, 2022, the School Ethics Commission (Commission) voted to transmit the above-captioned matter to the Office of Administrative Law (OAL) for a plenary hearing; and

Whereas, the Administrative Law Judge (ALJ) issued an Initial Decision dated July 12, 2023; and


Whereas, the ALJ found that Respondent Rogers violated *N.J.S.A.* 18A:12-24.1(e) and *N.J.S.A.* 18A:12-24.1(f), and recommended that Respondent Rogers be reprimanded, but also found that Respondents Stella and DiFranco did not violate *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f), and dismissed the Complaint against them; and

Whereas, Respondent Rogers filed exceptions to the Initial Decision, but Complainant did not file a reply to Respondent Rogers' exceptions; and

Whereas, at its meeting on August 22, 2023, the Commission reviewed the record in this matter, and discussed adopting the ALJ's conclusion that Respondent Rogers violated *N.J.S.A.* 18A:12-24.1(e) and *N.J.S.A.* 18A:12-24.1(f), the recommended penalty of reprimand, the conclusion that Respondents Stella and DiFranco did not violate *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f), and the dismissal of the Complaint against them.

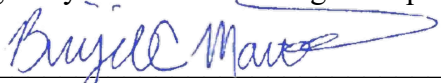
Whereas, at its meeting on September 26, 2023, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on August 22, 2023; and

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 its regularly scheduled meeting on September 26, 2023.



Brigid C. Martens, Acting Director
School Ethics Commission