

New Jersey Commissioner of Education

Final Decision

Jim Giannakis, Keith Both, Thomas Cassio,
Pio Pennisi, Doug Chapman, and William
Seesselberg,

Complainants,

v.

Debbie Boyle, South Plainfield Board of
Education, Middlesex County,

Respondent.

Synopsis

Complainants alleged, *inter alia*, that respondent, a member of the South Plainfield Board of Education, violated *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(d)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(f)*, *N.J.S.A. 18A:12-24.1(i)*, and *N.J.S.A. 18A:12-24.1(j)* of the Code of Ethics for School Board Members when she, *inter alia*, sent an email that was critical of the Superintendent to the Board as well as the Superintendent and her assistant, and directly contacted high school band and chorus teachers to request that the marching band and chorus perform at an event on behalf of an organization for which respondent serves as secretary. The School Ethics Commission (SEC) determined that the respondent's actions violated *N.J.S.A. 18A:12-24.1(d)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(i)* and *N.J.S.A. 18A:12-24.1(j)* of the Code of Ethics for School Board Members. The SEC recommended a penalty of censure for these violations.

The case was forwarded to the Commissioner for a final determination of the appropriate penalty in this matter. Upon review, the Commissioner concurred with the penalty recommendation of the SEC for respondent's actions. 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.

331-23SEC
SEC Dkt. No. C86-21
OAL Dkt. No. EEC 03124-22
Agency Dkt. No. 260-9/23

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William Seesselberg,

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v.

Debbie Boyle, South Plainfield Board of
Education, Middlesex County,

Respondent.

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 Debbie Boyle, a member of the South Plainfield Board of Education (Board), violated *N.J.S.A. 18A:12-24.1(d)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(i)*, and *N.J.S.A. 18A:12-24.1(j)* of the Code of Ethics for School Board Members. The Commission recommended a penalty of censure 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)*. Respondent 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 bypassing the chain of the command and criticizing and questioning district administrators.

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

IT IS SO ORDERED.¹


ACTING COMMISSIONER OF EDUCATION

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

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-03124-22
SEC Docket No.: C86-21
Final Decision

**Jim Giannakis, Keith Both, Thomas Cassio, Pio Pennisi, Doug Chapman,
and William Seesselberg,**

Complainants

v.

**Debbie Boyle,
South Plainfield Board of Education, Middlesex County,
*Respondent***

I. Procedural History

The above-captioned matter arises from a Complaint that was filed on November 24, 2021,¹ by Jim Giannakis, Keith Both, Thomas Cassio, Pio Pennisi, Doug Chapman, and William Seesselberg (collectively referred to as Complainants) alleging that Debbie Boyle (Respondent), a member of the South Plainfield Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* The Complaint avers that Respondent violated *N.J.S.A.* 18A:12-24.1(c) (Counts 1-2), *N.J.S.A.* 18A:12-24.1(d) (Counts 1-2), *N.J.S.A.* 18A:12-24.1(e) (Counts 1-2), *N.J.S.A.* 18A:12-24.1(f) (Count 2), *N.J.S.A.* 18A:12-24.1(i) (Counts 1-2), and *N.J.S.A.* 18A:12-24.1(j) (Counts 1-2) of the Code of Ethics for School Board Members (Code).

At its meeting on March 22, 2022, and after reviewing Respondent's Motion to Dismiss in Lieu of Answer (Motion to Dismiss) and Complainants' response thereto, the Commission voted to grant the Motion to Dismiss as to the alleged violations of *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(i), and *N.J.S.A.* 18A:12-24.1(j) in Count 1; deny the Motion to Dismiss as to the alleged violations of *N.J.S.A.* 18A:12-24.1(d) and *N.J.S.A.* 18A:12-24.1(e) in Count 1; and to deny the Motion to Dismiss as to Count 2 (in its entirety). Based on its findings, the Commission also voted to direct Respondent to file an Answer to Complaint (Answer), and to transmit the matter to the Office of Administrative Law (OAL) following receipt of the Answer.

On April 7, 2022, Respondent filed an Answer as directed. The Commission subsequently transmitted the matter to the OAL for a plenary hearing where Complainants would carry the burden to prove the remaining violations of the Code as set forth in the Complaint.

¹ On November 24, 2021, Complainants filed a deficient Complaint; however, on December 12, 2021, Complainants 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.

At the OAL, a hearing was held on February 13 and 14, 2023. Thereafter, the Administrative Law Judge (ALJ) issued an Initial Decision on July 17, 2023. Respondent filed exceptions to the Initial Decision, in accordance with *N.J.A.C.* 1:1-18.4, and Complainants filed a reply thereto.

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 modify the Initial Decision by adopting the Initial Decision's conclusion that Respondent violated *N.J.S.A.* 18A:12-24.1(e) in Count 1 and *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(i) and *N.J.S.A.* 18A:12-24.1(j) in Count 2, adopting the Initial Decision's conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24.1(f) in Count 2, but rejecting the Initial Decision's conclusion that Respondent violated *N.J.S.A.* 18A:12-24.1(d) in Count 1 and/or *N.J.S.A.* 18A:12-24.1(c) in Count 2. The Commission also voted to adopt the recommended penalty of censure.

II. Initial Decision

A. Count 1

In Count 1, Complainants allege that Respondent violated *N.J.S.A.* 18A:12-24.1(d) and *N.J.S.A.* 18A:12-24.1(e) when she sent an email that was critical of the Superintendent to the entire Board, the Superintendent and the Superintendent's assistant.

According to the testimony of Diana Joffe, the South Plainfield Education Association (SPEA) President, in 2021, the Superintendent abruptly changed the time of the high school graduation from evening to morning, which upset teachers who would no longer be able to participate in the ceremony. *Id.* at 10. Joffe was not on speaking terms with the Superintendent, so she testified that she called Respondent and asked her to speak with the Superintendent about her concerns. *Ibid.* According to her testimony, Joffe had been told that the Superintendent changed the time of graduation because her daughter's graduation was scheduled for the same time. *Ibid.*

Thereafter, in response to the Superintendent's "Friday packet" containing information about graduation, Respondent sent an email on May 28, 2021, to the Superintendent, the Superintendent's administrative assistant, and all Board members, which stated:

Good morning[.] I'm reading the notes with regards to the high school graduation and Diane Joffe is the current SPEA president not the former. Her discussion was that she was not concerned about the time change[;] she was concerned that the reason for the time change was not based on the needs of the parents and the students but rather[,] for your own personal needs which she discussed and the fact that the rationale was disingenuous. The parents which [sic] have publicly stated and the students we're [sic] upset because of the abrupt change in time and [sic] speaking

to a number of board members[,] no one was informed except at the bottom of the Friday packet information under events [sic] various events were taking place and Middle School graduation was put in there and so was the high school graduation. This was never discussed with the entire board[.] [T]his is [sic] the issues that came forward by parents and students. In any event[,] if you have issues with the current acting SPEA president [D.J.] please reach out to her to have that discussion. Thank you.

[*Id.* at 3-4.]

With respect to *N.J.S.A.* 18A:12-24.1(d), the ALJ found that Respondent did not violate the provision because she did not issue the Superintendent a direct order in the May 28, 2021, email. *Initial Decision* at 16. However, the ALJ found that Respondent did violate *N.J.S.A.* 18A:12-24.1(d) when she had a private conversation with the SPEA President without notifying the Board or Superintendent, and instead, Respondent should have directed Joffe to speak directly with the Board President or the Superintendent or Respondent should have contacted the Superintendent and Board before sending the May 28, 2021, email. *Id.* at 18.²

In finding a violation of *N.J.S.A.* 18A:12-24.1(e), the ALJ determined that Respondent acted beyond the scope of her duties by allowing herself to be the messenger for the SPEA president. *Id.* at 19. The ALJ noted Respondent should have persuaded the SPEA President to bring her issues directly to the Superintendent. *Ibid.*

B. Count 2

In Count 2, Complainants allege that Respondent violated *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), *N.J.S.A.* 18A:12-24.1(i), and *N.J.S.A.* 18A:12-24.1(j) when she directly contacted the high school band and chorus teachers to request that the marching band and choir perform at an event for the Plainfield Chapter of UNICO, an Italian American Service Organization, of which Respondent is the secretary.

On September 16, 2021, Respondent sent an email to the band teacher asking if the marching band would play at the UNICO's annual Columbus Day program as they had in the past. *Initial Decision* at 4. Respondent sent the email from her personal email address and signed it using her title as secretary of UNICO's Plainfield Chapter. *Ibid.* When she did not get a response, Respondent emailed the high school principal on September 27, 2021, inquiring about the marching band's participation in the Columbus Day program, again using her personal email. *Ibid.* The principal responded and indicated that he would speak with the marching band teacher about the request. *Id.* at 4-5. The next day, the principal informed Respondent that the marching

² While the Order at the conclusion of the Initial Decision dismisses *N.J.S.A.* 18A:12-24.1(d) in Count 1, the ALJ indicated in the Legal Discussion section of the Initial Decision that Respondent did violate *N.J.S.A.* 18A:12-24.1(d) in Count 1. Although the Order and the Legal Discussion are contradictory, the Commission considers the findings in the ALJ's Legal Discussion to be the ALJ's intention.

band would not be able to attend the event. *Id.* at 5. On September 30, 2021, Respondent sent a text message to the chorus teacher asking for a call back regarding the chorus participating in the Columbus Day event. *Exhibit R-20*. The chorus teacher responded by text and indicated that the principal “says that the choir and band are not doing the Columbus Day ceremony.” *Ibid.* Respondent clarified that she was asking about the chorus, while her previous request had been for the band. Respondent asked, “what is the reasoning that you are not going to be able to participate when you have done this all these years and enjoyed it.” *Exhibit R-21*. The chorus teacher reiterated, “I spoke to [the principal] about performing and unfortunately we are not going to be able to participate this year.” *Ibid.*

The ALJ found it is undisputed that Respondent directly contacted District staff via email and text and, although she contacted them from her personal accounts, she used information obtained as a Board member (e.g., email addresses that were not on the District’s website), to contact the staff. *Id.* at 20-21. The ALJ found Respondent violated *N.J.S.A.* 18A:12-24.1(c) when she acted outside the scope of her duties in bypassing the Superintendent and in sending invitations directly to District staff. *Id.* at 21.

The ALJ explained Respondent requested clarification from the chorus teacher regarding why the chorus could not perform at the Columbus Day ceremony in a text message because Respondent had a friendship with the chorus teacher and had her personal cell phone number. *Id.* at 22. According to the ALJ, Respondent put the chorus teacher in a “difficult position,” and therefore, found that Respondent’s request for an explanation from a teaching staff member was an inappropriate attempt to administer the schools in violation of *N.J.S.A.* 18A:12-24.1(d). *Ibid.*

Regarding a violation of *N.J.S.A.* 18A:12-24.1(e), the ALJ contended Respondent placed the chorus teacher in an “awkward” position when Respondent questioned the principal’s directive and asked the chorus teacher to explain that decision, and such action potentially compromised the Board’s integrity and implied that Respondent was acting on behalf of the Board. *Id.* at 23. Therefore, the ALJ found that Respondent’s actions in using a staff member’s personal cell phone to request that students participate in an outside activity, on behalf of an outside organization, without clearly identifying Respondent’s role violates *N.J.S.A.* 18A:12-24.1(e). *Ibid.*

The ALJ further contended that although Respondent’s process for requesting that students participate in the events was flawed, she did not use the schools for her personal gain or for the gain of her friends because the invitation was ultimately rejected and the students did not participate; therefore, the ALJ found that Complainants did not meet their burden to prove that Respondent violated *N.J.S.A.* 18A:12-24.1(f). *Id.* at 23-24.

As to a violation of *N.J.S.A.* 18A:12-24.1(i), the Superintendent testified that despite prior practice, in 2017 she established new protocol requiring Board members to contact her before contacting staff, and Respondent’s emails and texts to the high school principal and staff were in direct opposition to that directive. *Id.* at 24. In addition, Respondent was a “Master Board Member” and received training, and therefore, her testimony that she was unaware of the protocol was not credible, thus the ALJ found that Respondent violated *N.J.S.A.* 18A:12-24.1(i). *Ibid.*

Finally, as to a violation of *N.J.S.A.* 18A:12-24.1(j), the ALJ noted it was undisputed that Respondent was unhappy that the marching band and choir were not going to participate in the events and that Respondent requested an explanation. *Id.* at 25. According to the ALJ, Respondent's actions are "tantamount to initiating an investigation prior to administrative action" and Respondent initiated an inquiry prior to the referral to the Superintendent; therefore, the ALJ found Respondent violated *N.J.S.A.* 18A:12-24.1(j). *Ibid.*

C. Penalty

With respect to the appropriate penalty, the ALJ opined that Respondent's actions were not *de minimis*, but rather, a blatant disregard for the chain of communication, and a serious lack of judgment. Therefore, as Respondent is no longer on the Board, the ALJ concluded that a penalty of **censure** should be imposed. *Ibid.*

III. Exceptions

Respondent's Exceptions

In her exceptions, Respondent asserts the ALJ erred when she determined that Respondent violated *N.J.S.A.* 18A:12-24.1(d) and *N.J.S.A.* 18A:12-24.1(e) in Count 1 by sending the May 28, 2021, email. Respondent argues she was relaying a message to the Superintendent and the Board regarding the concerns she obtained from the SPEA President. The ALJ suggests that Respondent could have contacted the Superintendent and the Board prior to sending the email, which Respondent argues is exactly what she did. According to Respondent, by sending the email, she "relayed the SPEA President's concerns to both the Superintendent and the remaining Board [m]embers," and as such, did not violate *N.J.S.A.* 18A:12-24.1(d). Respondent maintains that the ALJ's finding that she violated *N.J.S.A.* 18A:12-24.1(e) is also incorrect. According to Respondent, regardless of the reason the SPEA President shared her concerns with Respondent rather than another Board member, Respondent was obligated to share that information with the Superintendent and the Board. Respondent further maintains Complainants did not provide any evidence to demonstrate that Respondent made any promises to the SPEA President, and relaying information received from a friend is not beyond the scope of Respondent's duties.

Regarding the allegations in Count 2 as they relate to Respondent's direct communications with the band and chorus teachers, Respondent argues the ALJ erred when she stated that the high school staff emails are not on the District's website and that Respondent used information that was available to her as a Board member, not a member of the public. Respondent further argues Complainants did not provide any evidence to support that Respondent contacted the District staff in her capacity as a Board member and contrary to the ALJ's determination, staff email contacts can be located on the website; therefore, a violation of *N.J.S.A.* 18A:12-24.1(c) cannot be sustained. As to her inquiry to the staff about why the chorus could not attend the event, Respondent contends she requested whether the band and chorus could attend the event and only received a response back about the band, not the chorus; hence, she followed up with an inquiry related to the chorus' availability. Respondent further contends

that the testimonies from the staff did not indicate that they “felt any pressure to comply with the request” nor that Respondent was issuing an order. According to Respondent, Complainants did not provide any evidence to demonstrate that Respondent obtained the chorus teacher’s phone number in her role as a Board member, and therefore, a violation of *N.J.S.A. 18A:12-24.1(d)* should be dismissed. As to a violation of *N.J.S.A. 18A:12-24.1(e)*, Respondent asserts the record does not reflect that she made any personal promises that would compromise the Board. Respondent notes her requests were made as a private citizen, on behalf of an outside organization, and none of the testimony supports the fact that Respondent was communicating with the staff as a Board member. According to Respondent, the ALJ determined Respondent violated *N.J.S.A. 18A:12-24.1(i)* because the Superintendent had established protocol regarding submitting requests to the Superintendent to contact District staff back in 2017; however, Respondent maintains Complainants did not submit any evidence of such a “written protocol.” Finally, as to a violation of *N.J.S.A. 18A:12-24.1(j)*, Respondent reaffirms the ALJ erred when she determined Respondent’s inquiry as to why the chorus and band could not participate at the event was “tantamount to conducting an inquiry or investigation.” Respondent argues the ALJ maintained that Respondent was acting in her capacity as a member of UNICO when she made the request of the band/chorus as evidenced by the emails sent from her personal account. Therefore, if the requests were made in her private capacity, Respondent contends it would only stand to reason that any inquiries as to why the chorus could not perform were also made in the same capacity, not as a Board member.

With the above in mind, Respondent asserts the Initial Decision should be rejected and the Commission should find that she was not in violation of any provisions of the Code.

Complainants’ Reply to Respondent’s Exceptions

In their reply, Complainants note Respondent’s exceptions “mainly rely on the arguments expressed in her original brief,” which is not an acceptable submission, and which have also been previously considered by the ALJ before the Initial Decision was issued. Therefore, because Respondent did not raise any new arguments and because, according to Complainants, the ALJ’s decision is accurate and previously outlined and considered Respondent’s arguments and reasoning, there “is nothing else for the Commission to consider,” and the Initial Decision should be adopted.

IV. Analysis

Upon a careful, thorough, and independent review of the record, the Commission agrees with the ALJ that Respondent violated *N.J.S.A. 18A:12-24.1(e)* in Count 1 and *N.J.S.A. 18A:12-24.1(d)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(i)* and *N.J.S.A. 18A:12-24.1(j)* in Count 2, and also agrees with the ALJ that Respondent did not violate *N.J.S.A. 18A:12-24.1(f)* in Count 2. However, the Commission disagrees with the ALJ and finds that Respondent did not violate *N.J.S.A. 18A:12-24.1(d)* in Count 1 and/or *N.J.S.A. 18A:12-24.1(c)* in Count 2. Nonetheless, the Commission agrees with the ALJ’s recommended penalty of censure.

Under *N.J.S.A. 18A:12-24.1(d)*, board members must not administer the schools, but instead see that they are well run. The Commission finds that Respondent’s May 28, 2021, email

neither gave a direct order to the Superintendent, nor was it an attempt to become directly involved in the day-to-day administration of the District. The Commission agrees with Respondent and notes that Respondent's May 28, 2021, email was not a directive, but rather was consistent with Respondent's responsibility to refer a complaint to the chief school administrator. As such, the Commission finds that Respondent did not violate *N.J.S.A. 18A:12-24.1(d)* in Count 1.

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. The Commission concurs that Respondent acted beyond the scope of her duties as a Board member when she took it upon herself to make accusations against the Superintendent that she was acting disingenuous and changed the time of graduation for personal reasons. Respondent's actions in undermining the Superintendent on an email that included the Superintendent's administrative assistant and the entire Board, by its nature, has the potential to compromise the Board. As such, the Commission finds Respondent violated *N.J.S.A. 18A:12-24.1(e)* in Count 1.

Pursuant to *N.J.S.A. 18A:12-24.1(c)*, board members must confine board action to "policy making, planning, and appraisal" and "frame policies and plans only after the board has consulted those who will be affected by them." The Commission finds that in Count 2, while it disagrees with Respondent's actions in contacting the band and chorus teachers to request that they participate at an event, rather than going through the proper channels, such action does not constitute official action to effectuate policies and plans. Although Respondent circumvented the process, her actions did not involve the implementation of policies or plans, and as such does not violate *N.J.S.A. 18A:12-24.1(c)*.

Under *N.J.S.A. 18A:12-24.1(d)*, board members must carry out their responsibility not to administer the schools, but see that they are well run. When Respondent sent a text message to the chorus teacher questioning her as to why the chorus could not perform at the Columbus Day event, Respondent inserted herself into activities that are the responsibility of school personnel and well beyond the role of a secretary of an outside organization. Respondent claims she was making the request as a UNICO secretary, but if such a claim were true, she would have had to follow the proper protocol and make the request and direct any inquiries to the principal or Superintendent as any member of the public would have to do. Instead, she questioned the principal's decision to his subordinate and was only presented with that opportunity because of her role as a Board member. As such, the Commission agrees with the ALJ that Respondent's request for an explanation from a teaching staff member was an inappropriate attempt to administer the schools in violation of *N.J.S.A. 18A:12-24.1(d)*.

According 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. When Respondent solicited the band and chorus teachers directly by email and/or text message to participate in the Columbus Day event, and then questioned the chorus teacher by text message as to why the principal would not allow the chorus to participate, she took action that could compromise the Board. Respondent was using information that she had as a Board member to contact the band and chorus teachers, instead of

directing her inquiries and/or requesting an explanation from proper authorities, as any other member of the public would be required to do. Although Respondent claims that she sent the email from her personal email account and as the secretary for UNICO, and therefore, was not making the request as a Board member, but for Respondent's position as a Board member, she would never have been able to contact the teachers directly, and as such, was acting beyond the scope of her duties. Respondent, a Board member, did not follow the chain of command that is required of any member of the public when making a request of District personnel, and further challenged the administration's decision-making to a teaching staff member. In doing so, it appears that Respondent circumvented the principal's authority, placed the chorus teacher in the impossible situation of being in the middle of a Board member and the teacher's direct supervisor, and presented the appearance that Board members are in disagreement with the administration, which compromises the Board. Accordingly, Respondent's direct communication with the band and chorus teachers, as well as her text message communication with the chorus teacher challenging the principal's determination that the chorus was unavailable to participate in a private event, 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. The Commission finds that Respondent did not use the schools for personal gain or for that of friends as members of the public are permitted to follow protocol and submit requests for the band and chorus to participate in a community event. The concern with Respondent's behavior was the way in which she communicated with staff members directly (rather than following the established process) and questioned the principal's determination, and not that she was seeking for the band and chorus to participate in the Columbus Day event. Accordingly, the Commission finds Respondent did not violate *N.J.S.A.* 18A:12-24.1(f).

According to *N.J.S.A.* 18A:12-24.1(i), Board members must support and protect school personnel in the proper performance of their duties. The Superintendent testified that a protocol was implemented in 2017 whereby Board members were to contact the Superintendent rather than staff members. Contrary to the protocol, Respondent directly contacted the band teacher, chorus teacher, and the principal. Such action violates the Superintendent's directive and does not support school personnel in the proper performance of their duties, in violation of *N.J.S.A.* 18A:12-24.1(i). While Respondent argues that a written copy of the protocol was not included in evidence, the Commission notes that the Superintendent provided testimony on the protocol. The ALJ also found Respondent's testimony that she was unaware of the protocol not credible. The Commission finds no basis to disturb the credibility findings of the ALJ, who had the opportunity to observe and assess Respondent during her testimony. Additionally, Respondent's actions in questioning a teacher as to why the principal would not permit the chorus to perform at an event also fails to support and protect the school personnel in the proper performance of their duties, and places the chorus teacher in an uncomfortable situation where a Board member is challenging the teacher's direct supervisor, in violation of *N.J.S.A.* 18A:12-24.1(i).

Finally, *N.J.S.A.* 18A:12-24.1(j) requires Board members to refer all complaints to the chief administrative officer and act on complaints at public meetings only after the failure of an administrative solution. The Commission agrees with the ALJ that Respondent's actions in sending a text message to the choir teacher requesting an explanation as to why the principal had

decided that the choir was unavailable for the Columbus Day event was “tantamount” to an investigation prior to referral of the matter to the Superintendent. If Respondent was unhappy with the principal’s decision that the band and choir were unavailable to participate in the event, she should have addressed her concerns with the Superintendent rather than questioning a teacher about the principal’s reasoning for the decision. As such, Respondent’s direct inquiries to a district staff member regarding Respondent’s disagreement with the principal’s decision without referring the matter to the Superintendent violates *N.J.S.A.* 18A:12-24.1(j).

The Commission further agrees with the ALJ that a **censure** is the appropriate penalty for such a violation. Respondent’s actions violated five provisions of the Code, which demonstrates the severity of her actions. As stated by the ALJ, “the blatant disregard for the chain of communication, and blurred lines of professional and personal relationships evidences a serious lack of judgment.” *Initial Decision* at 26. Respondent was a Board member for 15 years, serving as President and Vice President. She also served as President of the Middlesex County Board of Education for four years, and earned a Master Board Member designation from the New Jersey School Boards Association. As a seasoned Board member who had undergone years of ethics training, Respondent should have been well aware of her ethical obligations. The Commission notes that as Respondent is no longer on the Board, it is limited to the issuance of a reprimand or a censure, and it seeks to impose the more severe penalty of censure given the serious nature of Respondent’s numerous violations of the Code.

IV. Decision

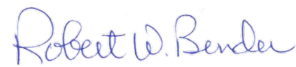
For all of the aforementioned reasons, the Commission modifies the Initial Decision of the OAL. Specifically, the Commission adopts the Initial Decision’s conclusions that Respondent violated *N.J.S.A.* 18A:12-24.1(e) in Count 1; *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(i) and *N.J.S.A.* 18A:12-24.1(j) in Count 2; and did not violate *N.J.S.A.* 18A:12-24.1(f) in Count 2. However, the Commission modifies the Initial Decision to reject the conclusion that Respondent violated *N.J.S.A.* 18A:12-24.1(d) in Count 1 and/or *N.J.S.A.* 18A:12-24.1(c) in Count 2. Accordingly, the Commission adopts the recommended penalty of **censure** for the violations.

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 C86-21**

Whereas, at its meeting on March 22, 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 17, 2023; and

Whereas, the ALJ found that Respondent violated *N.J.S.A.* 18A:12-24.1(d) and *N.J.S.A.* 18A:12-24.1(e) in Count 1, and *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(i) and *N.J.S.A.* 18A:12-24.1(j) in Count 2, but did not violate *N.J.S.A.* 18A:12-24.1(f) in Count 2, and recommended that Respondent be censured; and

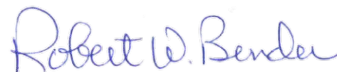
Whereas, Respondent filed exceptions to the Initial Decision and Complainants filed a reply to Respondent's exceptions; and

Whereas, at its meeting on August 22, 2023, the Commission reviewed the record in this matter, and discussed adopting the ALJ's conclusions that Respondent violated *N.J.S.A.* 18A:12-24.1(e) in Count 1, and *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(i) and *N.J.S.A.* 18A:12-24.1(j) in Count 2, but did not violate *N.J.S.A.* 18A:12-24.1(f) in Count 2.

Whereas, at its meeting on August 22, 2023, the Commission also discussed modifying the Initial Decision to reject conclusion that Respondent violated *N.J.S.A.* 18A:12-24.1(d) in Count 1 and/or *N.J.S.A.* 18A:12-24.1(c) in Count 2, but adopting the penalty of censure; and

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