452-26
OAL Dkt. No. EDU 08377-26
Agency Dkt. No. 185-05-26

New Jersey Commissioner of Education

Final Decision

Joseph Abbondanzo,

Petitioner,

v.

Dr. Anne Mucci, Superintendent, Morris School District, Morris County,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by the petitioner pursuant to *N.J.A.C.* 1:1-18.4, and the respondent's reply thereto have been reviewed and considered.

Petitioner alleges that respondent, Superintendent Anne Mucci, improperly used school resources and involved minor students to produce a promotional video advocating passage of a bond referendum, in violation of *N.J.S.A.* 18A:12-24(b) of the School Ethics Act (Act) and *N.J.S.A.* 18A:42-4. On or about May 15, 2026, petitioner filed a petition with the Commissioner of Education. The matter was later transmitted to the Office of Administrative Law (OAL), where the parties cross-moved for summary decision.

The Administrative Law Judge (ALJ) granted respondent's motion for summary decision, concluding that the OAL lacks jurisdiction to address alleged violations of the Act given petitioner's failure to file his complaint with the School Ethics Commission (SEC) or absent

transmittal of the complaint to the OAL from the SEC. The ALJ also dismissed petitioner's claim under *N.J.S.A.* 18A:42-4, finding that petitioner had not alleged that respondent supplied any prohibited literature to any student.

In his exceptions, petitioner concedes that the SEC has exclusive jurisdiction over alleged violations of the Act, but contends that the ALJ erred in dismissing his separate claim that respondent violated *N.J.S.A.* 18A:42-4. Specifically, petitioner argues that he properly filed this claim with the Commissioner since the "enforcement. . . and adjudication of *N.J.S.A.* 18A:42-4 are governed under *N.J.S.A.* 18A:6-9, which vests the Commissioner of Education with exclusive jurisdiction over all controversies and disputes arising under the school laws." Exceptions at 2 (internal quotation marks omitted). Petitioner also takes exception to the ALJ's conclusion that respondent did not violate *N.J.S.A.* 18A:42-4, arguing that 1) requiring the distribution of a physical piece of paper to trigger the statute eviscerates the legislative intent of the school laws; and 2) respondent's actions crossed the line established in *Citizens to Protect Public Funds v. Board of Education of Parsippany-Troy Hills*, 13 N.J. 172 (1953), regarding political advocacy by public bodies. Lastly, petitioner asserts that the ALJ improperly dismissed his claim under *N.J.S.A.* 18A:42-4 because there are genuine issues of material fact warranting a plenary hearing.

In reply, respondent argues that petitioner himself moved for summary decision and therefore cannot now claim that genuine issues of material fact exist. Respondent further argues that the Commissioner lacks jurisdiction to grant the relief that petitioner appears to seek. Respondent argues that even if the Commissioner has jurisdiction to grant relief, dismissal of petitioner's claim is warranted because he failed to allege facts sufficient to demonstrate a

violation of *N.J.S.A.* 18A:42-4, and the record is devoid of competent evidence suggesting that respondent engaged in the exploitative behavior contemplated by *N.J.S.A.* 18A:42-4.

Upon review, the Commissioner concurs with the ALJ that the petition must be dismissed. It is clear, and petitioner concedes, that the SEC has exclusive jurisdiction over alleged violations of the Act. As such, petitioner's first claim was correctly dismissed for lack of jurisdiction. Turning to petitioner's second claim, *N.J.S.A.* 18A:42-4 states in relevant part that:

> [n]o literature which in any manner and in any part thereof promotes, favors or opposes . . . the adoption of any bond issue, proposal, or any public question submitted at any general, municipal or school election shall be given to any public school pupil in any public school building or on the grounds thereof for the purpose of having such pupil take the same to his home or distribute it to any person outside of said building or grounds, nor shall any pupil be requested or directed by any official or employee of the public schools to engage in any activity which tends to promote, favor or oppose any such candidacy, bond issue, proposal, or public question. The board of education of each school district shall prescribe necessary rules to carry out the purposes of this section.
>
> *N.J.S.A.* 18A:42-4.

Here, petitioner does not allege that respondent gave any referendum-related literature to any student, nor does he allege that respondent did so "for the purpose of having such pupil take the same to his home or distribute it to any person outside of said building or grounds." *Id*. Furthermore, even if petitioner could establish that respondent violated *N.J.S.A.* 18A:42-4, the Commissioner agrees with the Board that there is no remedy available against respondent in this forum. In *Michael Spille v. Bd. of Educ. of South Hunterdon Regional School District, Hunterdon Cty*., OAL Dkt. No. EDU 09068-24, Initial Decision (Mar. 6, 2025), *adopted*, Commissioner Decision No. 108-25 (Mar. 27, 2025), the petitioner alleged that the superintendent and Board engaged in a widespread public relations campaign to influence the vote on a referendum. The ALJ dismissed

the petition on several grounds, including the unavailability of relief against the superintendent under *N.J.S.A* 18A:42-4, stating:

> [T]he Commissioner of Education is not empowered to remove or reprimand the superintendent . . . pursuant to the statutory or regulatory schemes of which petitioner now asserts there have been violations. In other words, the relief petitioner is seeking is untethered to the statutory and regulatory schemes he references.
>
> First, N.J.S.A. 18A:42-4 itself does not outline any specific remedies for violations thereof, let alone the remedies sought by petitioner. Instead, the statute only provides that no one shall distribute literature that favors or opposes the adoption of any bond issue to a public-school pupil on school grounds so that they then take the literature home and show it to others, and that the board of education for that district shall prescribe rules to carry out this prohibition. N.J.S.A. 18A:42-4. Here, petitioner does not reference any rules promulgated by the South Hunterdon Regional Board of Education that provide for the relief he is seeking. *Id*. at 12-13.

Similarly here, petitioner does not cite any Board rule that would provide him the relief he is seeking against respondent. As such, petitioner's second claim was correctly dismissed.

Accordingly, the Initial Decision is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.[1]



COMMISSIONER OF EDUCATION

Date of Decision: November 5, 2026
Date of Mailing: November 5, 2026

[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.

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
SUMMARY DECISION
OAL DKT. NO. EDU 08377-26
AGENCY DKT. NO. 185-05-26

JOSEPH ABBONDANZO,
Petitioner,
v.
DR. ANNE MUCCI, SUPERINTENDENT, MORRIS SCHOOL DISTRICT, MORRIS COUNTY,
Respondent.

Joseph Abbondanzo, petitioner, pro se

David Rubin, Esq. for respondent (Busch Law Group, LLC)

Record Closed: July 9, 2026 Decided: August 10, 2026

BEFORE **MARIANNE B. ORTEGA**, ALJ:

STATEMENT OF THE CASE

Joseph Abbondanzo's (Abbondanzo) petition, filed with the Commissioner of Education (Commissioner), alleges that Superintendent Anne Mucci (Mucci) improperly used school resources and involved minor students in promoting the school district's upcoming referendum, thereby violating the School Ethics Act (Act). Did Abbondanzo file his petition at the Office of Administrative Law incorrectly, warranting its dismissal? Yes. Complaints asserting violations of the Act are within the exclusive jurisdiction of the School Ethics Commission (SEC). N.J.S.A. 18A:12-27, 29.

PROCEDURAL HISTORY

On May 14, 2026, Abbondanzo filed a petition of appeal alleging that the board superintendent, Mucci, improperly used school resources and involved minor students in promoting the school district's upcoming referendum.

On May 18, 2026, Abbondanzo filed a complaint.

On May 26, 2026, the Department of Education, Office of Controversies and Disputes, transmitted the case to the Office of Administrative Law as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the Office of Administrative Law, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On June 12, 2026, I scheduled a telephone prehearing conference. On June 4, 2026, petitioner submitted a Motion for Summary Decision. On June 9, 2026, I established a briefing schedule.

On June 25, 2026, respondent filed an Answer to the petition of appeal, wherein respondent filed a cross-motion for summary decision. On July 9, 2026, I closed the record.

FINDINGS OF FACT

Based on the documents submitted in support of the Motion and Cross Motion for Summary Decision, I **FIND** the following as **FACT**:

1. Anne Mucci serves as Superintendent of the Morris School District.

2. Lance Armstrong, the broadcasting teacher at Morristown High School, asked Mucci to participate in an interview conducted by high school students regarding the upcoming referendum for broadcast over the high school television network.

3. On April 29, 2026, the students recorded an interview with Mucci at the high school, using the school's recording equipment. More than one high school student appeared in the video.

4. The school distributed the completed segment through the student broadcasting program's standard channels and district communication platforms, including the district website and YouTube.

5. On June 8, 2026, the Morris Board of Education authorized a special election to be held on September 15, 2026, for a bond referendum to fund infrastructure improvements throughout the district.

CONCLUSIONS OF LAW

Under N.J.A.C. 1:1-12.5, summary decision is appropriate if no genuine issue of material facts exists and the moving party is entitled to prevail as a matter of law.

To determine whether a genuine issue of material fact exists that precludes summary judgment, the motion judge must consider whether the competent evidential

materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to demonstrate that the moving party is entitled to a judgment as a matter of law. Brill v. Guardian Life Ins., 142 N.J. 520, 540 (1995). The "judge's function is not to . . . weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial." Id.

In this case, no genuine issue of material fact exists, and the governing issue is whether Abbondanzo filed this case with the proper agency for resolution. More specifically, no party disputes that a student interviewed Mucci about the upcoming referendum on school premises and using school recording equipment. However, Abbondanzo filed his petition with the Commissioner alleging Mucci's actions violated the School Ethics Act. Undeniably, he did not file this matter with the SEC. Since these acts are clear and undisputed, I **CONCLUDE** that the case is ripe for summary decision. Under N.J.S.A. 18A:12-24(b) of the Act, no school official shall use or attempt to use his or her official position to secure unwarranted privileges, advantages or employment for himself or herself, members of his or her immediate family, or others.

Under the Act, the Legislature established the "School Ethics Commission," N.J.S.A. 18A:12-27, within the Department of Education to enforce those ethical standards guiding school officials through a procedure for reviewing complaints of ethical violations, investigating those complaints, and ultimately rendering recommendations to the Commissioner as to the imposition of sanctions when violations are demonstrated. N.J. A.C. 6A:28-1.1(b).

Under the Act, the SEC must first determine whether sufficient probable cause exists to credit the allegations in the complaint against a school official. N.J.A.C. 6A:28-10.7(b)(1). If the Commission determines that probable cause exists, it will refer the matter to the OAL for a hearing under the APA. N.J.S.A.18A:12-29(b). Upon such a finding of probable cause, the complainant is no longer a party to the complaint, and the SEC prosecutes the allegations, which it found probable cause to credit. N.J.A.C. 6A:28-10.7(b)(1). Significantly, the SEC created this process to protect the public's confidence

because it is the Commission —not the complainant—which is the guardian of the public interest. See 41 N.J.R. 26(a) (January 5, 2009); see also 41 N.J.R. 2095(a) (May 18, 2009).

In this case, Abbondanzo argues that Mucci improperly used the Morristown High School television studio to create a highly persuasive public relations video promoting the school district's upcoming bond referendum.

In furtherance of his assertion that the Mucci acted unethically, Abbondanzo also alleges that respondent's action violated N.J.S.A. 18A:42-4, which prohibits the use of New Jersey public school students and school property for political campaigning or advocacy related to elections, including supplying students with referendum-related literature for distribution. Specifically, Abbondanzo maintains that the respondent used a minor student as the interviewer in the promotional video, placing the student on camera with other students in a structured district studio setting to ask questions designed to frame the referendum in a positive light. Still, Abbondanzo does not suggest that the respondent supplied any prohibited literature to any student.

In response, Mucci argues that even if Abbondanzo's allegations of the superintendent's impropriety were accurate, which she denies, the Commissioner lacks jurisdiction to adjudicate these claims. Instead, alleged violations of the Act are within the exclusive jurisdiction of the SEC. Here, Abbondanzo did not submit a complaint to the SEC, which bypassed established SEC procedures for the review and investigation of alleged impropriety of school administrators.

Thus, I **CONCLUDE** that OAL lacks jurisdiction to address claims concerning violations of the Act, absent Abbondanzo's failure to present this complaint to the SEC or transmittal to the OAL through the SEC.

ORDER

Given my findings of fact and conclusions of law, it is **ORDERED** that petitioner's request for summary decision is **DENIED**. It is further **ORDERED** that the respondent's cross motion for summary decision be **GRANTED**, and the petition is hereby **DISMISSED** as a matter of law.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION,** who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to Office of Controversies**

and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500. A copy of any exceptions must be sent to the judge and to the other parties.



August 10, 2026

DATE

MARIANNE B. ORTEGA, ALJ

Date Received at Agency: August 10, 2026

Date Mailed to Parties: August 10, 2026

ljb