

Before the School Ethics Commission
Docket No.: C62-18
Decision on Motion to Dismiss

**Patricia Fabrizio, Donna Eleazer, and Richard Villeda,
Complainants**

v.

**Archange Antoine,
Roselle Borough Board of Education, Union County,
Respondent**

I. Procedural History

This matter arises from a Complaint that was filed on September 24, 2018, by Patricia Fabrizio (a former member and President of the Roselle Borough Board of Education (Board)), Donna Eleazer (a former member of the Board), and Richard Villeda (a current member of the Board) (collectively referred to as Complainants), alleging that Archange Antoine (Respondent), a former member of the Board, violated the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.* More specifically, the Complaint alleges that Respondent violated *N.J.S.A. 18A:12-24.1(i)* in Count 1, violated *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(g)*, and *N.J.S.A. 18A:12-24.1(i)* in Count 2, and violated *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(g)*, and *N.J.S.A. 18A:12-24.1(i)* in Count 3.

On September 27, 2018, the Complaint was served on Respondent, via regular and certified mail, notifying him that charges were filed against him with the School Ethics Commission (Commission), and advising that he had twenty (20) days to file a responsive pleading. When Respondent failed to take any affirmative action regarding this matter, he was advised, by correspondence dated November 16, 2018, that failure to file a responsive pleading by November 28, 2018, could result in the Commission finding in favor of Complainants, and assessing him a penalty for the actions deemed admitted. On December 24, 2018, and after receiving an extension, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and also alleged that the Complaint is frivolous. On February 25, 2019, also after receiving an extension, Complainants filed a response to the Motion to Dismiss and allegation of frivolous filing.

The parties were notified by correspondence dated March 18, 2019, that this matter would be placed on the Commission's agenda for its meeting on March 23, 2019, in order to make a determination regarding the Motion to Dismiss and allegation of frivolous filing. At its meeting on March 23, 2019, the Commission considered the filings in this matter and, at a special meeting on May 2, 2019, the Commission voted to find that the matter is not moot, and to grant the Motion to Dismiss in its entirety because Complainants failed to plead sufficient, credible facts to support a finding that Respondent violated *N.J.S.A. 18A:12-24.1(i)* in Count 1,

violated *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(g), and *N.J.S.A.* 18A:12-24.1(i) in Count 2, and/or violated *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(g), and *N.J.S.A.* 18A:12-24.1(i) in Count 3. The Commission also voted to find the Complaint not frivolous, and to deny Respondent's request for sanctions.

II. Summary of the Pleadings

A. *The Complaint*

In Count 1 of their Complaint, Complainants assert that at a Board meeting on August 16, 2018, Respondent was present for approximately ten (10) minutes before "departing from the meeting after directly yelling at" Complainant Fabrizio (Board President) and "threatening her" because he "disagreed with her method for conducting the workshop meeting." Complainants assert that Respondent's actions violate *N.J.S.A.* 18A:12-24.1(i) because he engaged in inappropriate conduct (his remarks/comments to the Board President) and demonstrated unprofessional behavior during a Board meeting by yelling and walking off the dais. Moreover, while on the dais, Respondent's remarks were unprofessional and inappropriate for a Board meeting, and contrary to the Board's mission. In this way, Respondent failed to support and protect school personnel in the proper performance of their duties.

In Count 2 of their Complaint, Complainants argue that on or about August 17, 2018, and while acting as a Board member and without permission of the Board to speak on official Board matters, Respondent posted derogatory and false information (e.g., "bigot," "irrational," and "unhinged") about the Board President on his personal Facebook page, and on the "Real Roselle NJ" page. Complainants allege that Respondent violated *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(g) and *N.J.S.A.* 18A:12-24.1(i) by "continuously promulgating false and defamatory information about the Board President, to the detriment of the Board and all of its community members."

In Count 3 of their Complaint, Complainants contend that on or about August 17, 2018, Respondent, while acting as a Board member and without permission of the Board to speak on official Board matters, posted a comment on the Facebook page of another Board member, which was specifically directed at the Board President, and "derogatorily and falsely" claimed that, in her capacity as Board President, she was the "devil" and "unhinged and unstable." More specifically, the comment stated, "Exactly! Tell the truth and shame the devil. #Unhinged and Unstable." Complainants contend that Respondent violated *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(g) and *N.J.S.A.* 18A:12-24.1(i) because he continuously promulgates false and defamatory information about the Board President, to the detriment of the Board and all of its community members.

B. Motion to Dismiss and Allegation of Frivolous Filing

Following receipt of the Complaint, Respondent filed a Motion to Dismiss, and also alleged that the Complaint is frivolous. As a preliminary matter, Respondent argues this matter is "moot" because he has *not* been on the Board since "late August 2018." Regarding Count 1, Respondent argues that contrary to Complainants' allegations, the audio from the meeting will

prove that it was Complainant Fabrizio, and not Respondent, who was speaking in a raised voice and demanding that Board members put their phones away, and that Respondent was attempting to “quietly and respectfully” be heard. Respondent also argues that, while Complainants are free to disagree with Respondent’s expression of opinion, differences of opinion do not translate to a failure to “support and protect school personnel in the proper performance of their duties.” Furthermore, Complainants failed to provide facts demonstrating what “deliberate action” Respondent took, which “school personnel” he allegedly failed to “support and protect,” and “which duties were allegedly thwarted.” Respondent asserts that Complainants failed to state a claim that Respondent violated *N.J.S.A. 18A:12-24.1(i)* and, therefore, Count 1 should be dismissed.

In response to Count 2 and Count 3, Respondent argues that Complainants did not allege, with respect to either Count 2 and/or Count 3, that Respondent made any personal promises, nor did they provide any facts demonstrating that Respondent took any action to compromise the Board or to undermine or harm “school personnel.” Respondent contends that Board members are permitted to express their opinions and Complainants did not provide any facts that Respondent’s opinions compromised the Board. In addition, Respondent argues that the August 17, 2018, posts on Facebook (one on his own Facebook (Count 2) and the other on the Facebook page of another Board member (Count 3)) do not disclose any “official Board matters,” do not disclose any inaccurate or confidential information, and do not disclose any facts “not made available to the public by attending Board meetings, perusing Board minutes, or listening to the audio recordings publicly available on the Board’s website.” Furthermore, Respondent “took appropriate precaution to include a disclaimer in his post, that the opinions expressed therein were solely his own, and that he was not speaking on behalf of the Board.” In this regard, at the end of his post, Respondent states, “Yes, these are my opinions and I’m speaking as a private citizen not a member of the board...” As a result, Respondent argues that Complainants failed to state a claim for the alleged violations of *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(g)* and/or *N.J.S.A. 18A:12-24.1(i)* in Count 2 and/or Count 3.

Finally, Respondent asserts that the Complaint is frivolous because the audio recording from the meeting on August 16, 2018, shows that Respondent did not yell or threaten Complainant Fabrizio, and Complainants “egregiously misrepresented” Respondent’s actions. Further, Respondent’s Facebook posts contain appropriate disclaimers, a fact which Complainants “disingenuously” omitted; therefore, the Complaint should be dismissed, and sanctions imposed on Complainants.

C. Response to Motion to Dismiss and Allegation of Frivolous Filing

In response to the Motion to Dismiss and allegation of frivolous filing, Complainants maintain that Respondent, along with another Board member, disrupted the Board President at the meeting on August 16, 2018, to “deliberately derail” the meeting, and then “storm[ed]” out of the meeting, with the intention of defeating a quorum and preventing the Board from conducting business. Complainants argue that the Board President attempted to gain control of the meeting and as the recording indicates, Respondent and Board member Keyanna Jones, were deliberately attempting to interrupt Board business by attempting to “wrestle control” of the meeting from the Board President. Complainants assert that Respondent’s actions were deliberate actions that

“undermin[ed], oppos[ed], compromis[ed] or harm[ed] school personnel in the proper performance of their duties.” Furthermore, Complainants argue that while Respondent is entitled to express his opinions, at no time during the meeting did Respondent share what could be considered an opinion. Respondent did not attempt to share his concerns or participate in the meeting, but rather interrupted and attempted to control the meeting. Complainants assert that Respondent’s actions support a violation of *N.J.S.A.* 18A:12-24.1(i).

In support of a violation of *N.J.S.A.* 18A:12-24.1(e) in Counts 2 and 3, Complainants argue that Respondent intentionally disparaged the Board and the Board President by posting false accusations on social media. Respondent’s disclaimer is disingenuous, “Yes these are my opinions and I’m speaking as a private citizen not a member of the board #LordHelpUs.” It states that he is not “speaking” as a member of the Board; however, that is what he is doing because the post contains statements regarding private conversations and committee appointments that are Board matters. Furthermore, Respondent states in his post, “If you speak to any board member ...” and any reader would view the statements in that post as those of a Board member. Therefore, Respondent violated *N.J.S.A.* 18A:12-24.1(e).

Regarding a violation of *N.J.S.A.* 18A:12-24.1(g) in Counts 2 and 3, Complainants argue that Respondent’s posts contained inaccurate statements, such as referring to the Board President as “unhinged,” an “irrational thinker” who is “always rude, nasty and loves talking down to students, staff, teachers and members of the community.” In addition to a “political pawn” who “can’t run a meeting without the attorney ...” Moreover, these comments are accusations rather than opinion as Respondent claims, and he encouraged citizens to find, and question a Board member about confidential Board matters. Therefore, Complainants reaffirm that Respondent violated *N.J.S.A.* 18A:12-24.1(g).

As for the violations of *N.J.S.A.* 18A:12-24.1(i) in Counts 2 and 3, Complainants reaffirm that Respondent’s Facebook posts are “clear examples” of “deliberate action which resulted in undermining ...” He presented the posts as factual statements, not as opinion and his short disclaimer is insufficient; therefore, Respondent violated *N.J.S.A.* 18A:12-24.1(i).

Finally, Complainants argue the Complaint is not frivolous because Respondent’s disruptive behavior can clearly be heard in the video of the meeting and Complainants did not lie about Respondent’s alleged disclaimer, which does not change that his Facebook posts were “purportedly factual statements” and not opinion.

III. Analysis

A. Mootness Argument

In his Motion to Dismiss, Respondent preliminarily argues that this matter is moot because he has not served as a Board member since “late August 2018.” Despite the fact that, as of the date the Complaint was filed, Respondent ceased to serve as a Board member, the allegations in the Complaint relate to actions that Respondent took *while* he was serving as a Board member. If the Commission accepted Respondent’s argument, then all school officials could, following the filing of a Complaint, resign from their positions in order to avoid an

adverse finding from the Commission. Such a proposition would subvert the legislative intent of the School Ethics Act. Therefore, the Commission finds that because the allegations in the Complaint relate to actions taken by Respondent while he was a Board member, the matter is not moot.

B. Standard for Motion to Dismiss

In determining whether to grant a Motion to Dismiss, the Commission shall review the facts in the light most favorable to the non-moving party (Complainants), and determine whether the allegation(s), if true, could establish a violation of the Act. Unless the parties are otherwise notified, a Motion to Dismiss and any response is reviewed by the Commission on a summary basis. *N.J.A.C. 6A:28-8.1 et seq.* Thus, the question before the Commission is whether Complainants have alleged facts which, if true, could support a finding that Respondent violated *N.J.S.A. 18A:12-24.1(i)* as alleged in Count 1, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(g)*, and *N.J.S.A. 18A:12-24.1(i)* as alleged in Count 2, and/or *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(g)*, and *N.J.S.A. 18A:12-24.1(i)* as alleged in Count 3.

C. Alleged Code Violations

In their Complaint, Complainants allege that Respondent violated *N.J.S.A. 18A:12-24.1(i)* in Count 1, violated *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(g)*, and *N.J.S.A. 18A:12-24.1(i)* in Count 2, and violated *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(g)*, and *N.J.S.A. 18A:12-24.1(i)* in Count 3. These provisions of the Code of Ethics for School Board Members (Code) provide, respectively:

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

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

i. I will support and protect school personnel in proper performance of their duties.

Alleged Violations of N.J.S.A. 18A:12-24.1(e) (Count 2 and Count 3)

Pursuant to *N.J.A.C. 6A:28-6.4(a)(5)*, factual evidence of a violation of *N.J.S.A. 18A:12-24.1(e)* shall include evidence that Respondent made personal promises or took action beyond the scope of his duties such that, by its nature, had the potential to compromise the board.

In **Count 2**, Complainants allege that when, in his capacity as a Board member and without permission from the Board to speak on official Board matters, Respondent posted

derogatory and false information (“bigot,” “irrational,” and “unhinged”) about the Board President on his (Respondent’s) personal Facebook page and on the “Real Roselle NJ” page, and did so to the detriment of the Board and all of its community members, Respondent violated *N.J.S.A.* 18A:12-24.1(e). In **Count 3**, Complainants contend that when, in his capacity as a Board member and without permission from the Board to speak on official Board matters, Respondent posted derogatory and false comments (“devil,” “unhinged,” and “unstable”) about the Board President on the Facebook page of another Board member, and did so to the detriment of the Board and all of its community members, Respondent violated *N.J.S.A.* 18A:12-24.1(e).

Respondent counters, with regard to the alleged violation of *N.J.S.A.* 18A:12-24.1(e) in both **Count 2 and Count 3**, that Complainants did not allege that Respondent made any personal promises, nor did they provide any facts demonstrating that Respondent took any action to compromise the Board. Respondent further counters that Complainants did not provide any facts explaining how Respondent’s opinions compromised the Board. Respondent also notes that he provided a disclaimer at the end of his post (Count 2) to clarify that his comments were his own personal opinion, and not those of the Board.

Based on its review of Complainant’s allegations, the Commission finds that even if the facts as alleged in the Complaint are proven true by sufficient credible evidence, they would not support a finding that Respondent violated *N.J.S.A.* 18A:12-24.1(e). The Complaint alleges that by posting “derogatory” and “false” information about Complainant Fabrizio on his Facebook page (Count 2) and the Facebook page of another Board member (Count 3), Respondent took action beyond the scope of his duties. However, other than referencing these negative comments, Complainants failed to articulate how these comments had the potential to compromise *the Board* (and not simply Complainant Fabrizio). Although there are additional facts and arguments made in their response to the Motion to Dismiss to support the alleged violations of this subsection of the Code, these facts and arguments do not appear as allegations in the Complaint. Therefore, the Commission finds that the alleged violation of *N.J.S.A.* 18A:12-24.1(e) in Count 2 and Count 3 should be dismissed.

Alleged Violations of N.J.S.A. 18A:12-24.1(g) (Count 2 and Count 3)

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

In **Count 2**, Complainants argue that when, in his capacity as a Board member, Respondent posted derogatory and false information (“bigot,” “irrational,” and “unhinged”) about the Board President on his (Respondent’s) personal Facebook page and on the “Real Roselle NJ” page, and did so to the detriment of the Board and all of its community members,

Respondent violated *N.J.S.A.* 18A:12-24.1(g). In **Count 3**, Complainants assert that when, in his capacity as a Board member and without permission from the Board to speak on official Board matters, Respondent posted derogatory and false comments (“devil,” “unhinged,” and “unstable”) about the Board President on the Facebook page of another Board member, and did so to the detriment of the Board and all of its community members, Respondent violated *N.J.S.A.* 18A:12-24.1(g)

Respondent counters, with regard to the alleged violation of *N.J.S.A.* 18A:12-24.1(g) in both **Count 2 and Count 3**, that the information posted on his personal Facebook page did not disclose any “official Board matters,” did not disclose any inaccurate or confidential information, and did not disclose any facts not otherwise generally available to the public. Respondent also notes that he provided a disclaimer at the end of his post to clarify that his comments were his own personal opinion, and not those of the Board (Count 2).

After review of Complainant’s allegations, the Commission finds that even if the facts as alleged in the Complaint are proven true by sufficient credible evidence, they would not support a finding that Respondent violated *N.J.S.A.* 18A:12-24.1(g). In their Complaint, Complainants failed to identify exactly which information in Respondent’s post (Count 2) and in Respondent’s comment (Count 3) was not public or was information that was otherwise confidential. Instead, the allegations in the Complaint focus on the negative comments made by Respondent about Complainant Fabrizio in her capacity as Board President. While these comments are not favorable to Complainant Fabrizio, Complainants did not provide facts evidencing how they are not public or are confidential. Again, and as noted above, there are additional facts and arguments made in their response to the Motion to Dismiss to support the alleged violations of this provision of the Code; however, these facts and arguments do not appear as allegations in the Complaint. Therefore, the Commission finds that the alleged violations of *N.J.S.A.* 18A:12-24.1(g) in Count 2 and Count 3 should be dismissed.

**Alleged Violations of N.J.S.A. 18A:12-24.1(i)
(Count 1, Count 2, and Count 3)**

Pursuant to *N.J.A.C.* 6A:28-6.4(a)(9), factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(i) shall include evidence that Respondent took deliberate action which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties.

In **Count 1**, Complainants allege that Respondent violated *N.J.S.A.* 18A:12-24.1(i) because he engaged in inappropriate conduct (his remarks/comments to the Board President) and demonstrated unprofessional behavior during a Board meeting (yelling and walking off the dais) and, thereby, failed to support and protect school personnel in the proper performance of their duties. In **Count 2 and Count 3**, Complainants argue that Respondent violated *N.J.S.A.* 18A:12-24.1(i) because, while acting in his capacity as a Board member and without authority from the Board to speak about official Board matters, Respondent “continuously” promulgated false and defamatory information about the Board President on social media when he referred to her (the Board President) as a “bigot,” “irrational,” and “unhinged” on his personal Facebook page and

on the “Real Roselle NJ” page (Count 2), and as the “devil,” “unhinged,” and “unstable” on the Facebook page of another Board member (Count 3).

With regard to **Count 1, Count 2, and Count 3**, Respondent counters that differences of opinion do not translate to a failure to “support and protect school personnel in the proper performance of their duties,” and additionally argues that Complainants failed to provide facts demonstrating what “deliberate action” Respondent took, which “school personnel” he allegedly failed to “support and protect,” and “which duties were allegedly thwarted.” Respondent further counters that Complainants failed to provide facts demonstrating what “deliberate action” Respondent took, which “school personnel” he allegedly failed to “support and protect,” and “which duties were allegedly thwarted.”

Based on its review of Complainant’s allegations, the Commission finds that even if the facts as alleged in the Complaint are proven true by sufficient credible evidence, they would not support a finding that Respondent violated *N.J.S.A.* 18A:12-24.1(i) as alleged in Count 1, Count 2, and/or Count 3. Because Complainant Fabrizio is not an employee/personnel of the school district/Board, but rather a member of the Board (the employing body), Complainants cannot establish a violation of this provision of the Code. Therefore, the Commission finds that the alleged violations of *N.J.S.A.* 18A:12-24.1(i) in Count 1, Count 2, and Count 3 should be dismissed.

In reaching its decision as set forth herein, the Commission notes that its authority is limited to enforcing the Act, *N.J.S.A.* 18A:12-21 *et seq.*, a set of minimum ethical standards by which all school officials must abide. The Commission has jurisdiction only over matters arising under the Act, and it may not receive, hear, or consider any matter that does not arise under the Act, *N.J.A.C.* 6A:28-1.4(a). Therefore, to the extent that Complainants seek a determination from the Commission that Respondent’s statements were “false” and/or “derogatory,” the Commission notes that such a determination falls outside the scope, authority, and jurisdiction of the Commission. Nonetheless, if Complaint Fabrizio can establish that the statements made by Respondent were false and derogatory, she may be able to pursue a claim of defamation in the appropriate venue. Although the Commission does not have the authority to adjudicate whether the references to Complainant Fabrizio were, in fact, false or derogatory, the Commission reminds the parties that while Board members are free to disagree on matters pertaining to the Board, and are not required to like one another, they should always treat each other with decency and respect, and should be mindful of how the public may perceive their treatment and communications about one another.

Accordingly, and granting all inferences in favor of the non-moving party (Complainants), the Commission has determined that the matter is not moot, and that Complainants have **not** alleged facts sufficient to state a claim for a violation of *N.J.S.A.* 18A:12-24.1(i) in Count 1, *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(g), and *N.J.S.A.* 18A:12-24.1(i) in Count 2, and/or *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(g), and *N.J.S.A.* 18A:12-24.1(i) in Count 3. Therefore, the Commission **grants** Respondent’s Motion to Dismiss in its entirety.

IV. Request for Sanctions

At its meeting on March 26, 2019, the Commission considered Respondent's request that the Commission find the Complaint frivolous, and impose sanctions pursuant to *N.J.S.A.* 18A:12-29(e). Despite Respondent's argument, the Commission cannot find evidence that might show that Complainants filed the Complaint in bad faith or solely for the purpose of harassment, delay, or malicious injury. The Commission also does not have information to suggest that Complainants knew or should have known that the Complaint was without any reasonable basis in law or equity, or that it could not be supported by a good faith argument for an extension, modification or reversal of existing law. *N.J.A.C.* 6A:28-1.2. Therefore, at a special meeting on May 2, 2019, the Commission voted to find the Complaint not frivolous, and to deny Respondent's request for sanctions.

V. Decision

Based on the foregoing, and in reviewing the facts in the light most favorable to the non-moving party (Complainants), the Commission voted to find that the matter is not moot, and to **grant** the Motion to Dismiss in its entirety for failure to plead sufficient, credible facts to support a finding that Respondent violated *N.J.S.A.* 18A:12-24.1(i) as alleged in Count 1, *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(g), and *N.J.S.A.* 18A:12-24.1(i) as alleged in Count 2, and/or *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(g), and *N.J.S.A.* 18A:12-24.1(i) as alleged in Count 3. The Commission also voted to find that the Complaint is not frivolous, and to deny Respondent's request for sanctions.

Pursuant to *N.J.S.A.* 18A:12-29(b), the Commission hereby notifies Complainants and Respondent that, for the reasons set forth above, this matter is dismissed. This decision is a final decision of an administrative agency and, therefore, it is appealable only to the Superior Court-Appellate Division. *See, New Jersey Court Rule 2:2-3(a).*

Robert W. Bender, Chairperson

Mailing Date: May 3, 2019

**Resolution Adopting Decision
in Connection with C62-18**

Whereas, at its meeting on March 26, 2019, the School Ethics Commission (Commission) considered the Complaint, the Motion to Dismiss in Lieu of Answer (Motion to Dismiss) and allegation of frivolous filing, and the response to the Motion to Dismiss and allegation of frivolous filing filed in connection with the above-referenced matter; and

Whereas, at its meeting on March 26, 2019, the Commission discussed finding that the matter is not moot; and

Whereas, at its meeting on March 26, 2019, the Commission discussed granting the Motion to Dismiss in its entirety for failure to plead sufficient, credible facts to support the allegation that Respondent violated *N.J.S.A.* 18A:12-24.1(i) as alleged in Count 1, *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(g), and *N.J.S.A.* 18A:12-24.1(i) as alleged in Count 2, and/or *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(g), and *N.J.S.A.* 18A:12-24.1(i) as alleged in Count 3; and

Whereas, at its meeting on March 26, 2019, the Commission discussed finding the Complaint not frivolous, and denying Respondent's request for sanctions; and

Whereas, at a special meeting on May 2, 2019, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on March 26, 2019; and

Now Therefore Be It Resolved, that the Commission hereby adopts the decision and directs its staff to notify all parties to this action of its decision herein.

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at a special meeting on May 2, 2019.

Kathryn A. Whalen, Director
School Ethics Commission