

Before the School Ethics Commission
Docket No.: C39-22
Decision on Motion to Dismiss

Lisa-ann Moyer,
Complainant

v.

Mary Renaud, Craig Green, Abigail Christmann, Harriett Gaddy,
Stephen Bienko, and Lisa Strutin,
Allamuchy Township Board of Education, Warren County,
Respondents

I. Procedural History

The above-captioned matter arises from a Complaint that was filed on April 6, 2022, by Lisa-ann Moyer (Complainant), alleging that Mary Renaud (Respondent Renaud), Craig Green (Respondent Green), Abigail Christmann (Respondent Christmann), Harriett Gaddy (Respondent Gaddy), Stephen Bienko (Respondent Bienko), and Lisa Strutin (Respondent Strutin) (collectively referred to as Respondents), members of the Allamuchy Township Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.* By correspondence dated April 7, 2022, and April 12, 2022, Complainant was notified that the Complaint was deficient, and required amendment before the School Ethics Commission (Commission) could accept her filing. On April 14, 2022, Complainant cured all defects and filed an Amended Complaint (Complaint) that was deemed compliant with the requirements detailed in *N.J.A.C. 6A:28-6.3*. More specifically, the Complaint avers that Respondent Strutin violated *N.J.S.A. 18A:12-24.1(a)* (in Count 2), *N.J.S.A. 18A:12-24.1(c)* (in Count 1 and Count 3), *N.J.S.A. 18A:12-24.1(e)* (in Count 1 and Count 3), *N.J.S.A. 18A:12-24.1(g)* (in Count 3), and *N.J.S.A. 18A:12-24.1(j)* (in Count 1) of the Code of Ethics for School Board Members (Code); Respondent Green violated *N.J.S.A. 18A:12-24.1(g)* of the Code (in Count 4); and all named Respondents violated *N.J.S.A. 18A:12-24.1(c)* (in Count 5) and *N.J.S.A. 18A:12-24.1(g)* (in Count 6) of the Code.

On April 18, 2022, the Complaint was served on Respondents via electronic mail, notifying them that ethics charges had been filed against them with the Commission, and advising that they had twenty (20) days to file a responsive pleading.¹ On May 11, 2022, Respondents filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and Complainant filed a response to the Motion to Dismiss on June 21, 2022.

The parties were notified by correspondence dated August 15, 2022, that the above-captioned matter would be discussed by the Commission at its meeting on August 23, 2022, in

¹ As a result of the ongoing Coronavirus (COVID-19) pandemic, and the implementation of electronic filing, service of process was effectuated by the Commission through electronic transmission only.

order to make a determination regarding the Motion to Dismiss. Following its discussion on August 23, 2022, the Commission adopted a decision at a special meeting on September 14, 2022, granting the Motion to Dismiss in its entirety because Complainant failed to plead sufficient credible facts to support a finding that Respondent Strutin violated *N.J.S.A.* 18A:12-24.1(a) (in Count 2), *N.J.S.A.* 18A:12-24.1(c) (in Count 1 and Count 3), *N.J.S.A.* 18A:12-24.1(e) (in Count 1 and Count 3), *N.J.S.A.* 18A:12-24.1(g) (in Count 3), and/or *N.J.S.A.* 18A:12-24.1(j) (in Count 1); Respondent Green violated *N.J.S.A.* 18A:12-24.1(g) (in Count 4); and/or all named Respondents violated *N.J.S.A.* 18A:12-24.1(c) (in Count 5) and/or *N.J.S.A.* 18A:12-24.1(g) (in Count 6).

II. Summary of the Pleadings

A. The Complaint

By way of background, Complainant (also a Board member) states that her child was “physically assaulted” and then “punished before an investigation was even started.” Subsequently, the investigation “found that [the child] was a victim of [Harassment, Intimidation, and Bullying],” and Complainant and her spouse requested that the child’s “unjustified suspension be removed” from the child’s permanent record; however, the Superintendent “refused” to do so, and the Board “refused to hear [a] complaint or hold the [S]uperintendent accountable.” Complainant states her spouse “was shut down while attempting to speak during public open session and [Complainant and her spouse] were told [they] could no longer speak about it anywhere.” Consequently, Complainant and her spouse hired “an attorney and file[d] a lawsuit in defense of” their child, and note that the Board and the Superintendent, led by Respondent Strutin (Board President) and the Superintendent “have waged retaliation by all out harassment, slander, and a smear campaign of” Complainant and her family “in retaliation for [the] lawsuit.” According to Complainant, Respondent Strutin has “lied, slandered, twisted, and fabricated every event in an attempt to make sure her own shortcomings remain hidden.” Complainant maintains prior to her filing a lawsuit, Respondent Strutin had “praised [Complainant’s] work, dedication, and responsibility numerous times.”

With the above in mind, and in Count 1, Complainant asserts that at a Board meeting on March 28, 2022, Respondent Strutin “made a motion to remove [Complainant] from [her] position as Representative Liaison to Hackettstown High School” without the entire Board’s knowledge, “and colluded with the five [B]oard members [named as Respondents here] outside of [B]oard business.” By “commandeer[ing] a public [B]oard meeting for her own personal reasons and retaliation,” Complainant asserts that Respondent Strutin violated *N.J.S.A.* 18A:12-24.1(c) because “she did this without the knowledge of all board members, and colluded with the five board members [named as Respondents here] outside of [B]oard business with no regard to those that would be affected by her action”; violated *N.J.S.A.* 18A:12-24.1(e) because “she took private action that compromised the whole [B]oard when she engaged in this live attack at a publicly held live streamed meeting and made false accusations and defamed [Complainant’s] character in a public setting,” and this “put the whole [B]oard in a compromising position, especially those that were blindsided by her actions”; and violated *N.J.S.A.* 18A:12-24.1(j) because “there was nothing in [Complainant’s] role as Hackettstown liaison that was a level of failure and in need of an administrative solution and nothing that [Respondent] Strutin needed to address publicly nor refer as a complaint.”

In Count 2, Complainant contends that Respondent Bienko “has not been a participating [B]oard member and has missed three consecutive [B]oard meetings in a row along with several other [B]oard dates and is now ineligible to serve.” Despite this fact, Respondent Strutin “refuses to follow policy to remove him because as she has stated several times ‘[Respondent Bienko] will do anything [she] tell[s] him to and will vote the way [she] need[s] him to so [she does not] want to do anything to get rid of him.’” Therefore, Complainant argues Respondent Strutin violated *N.J.S.A. 18A:12-24.1(a)* because she “is attempting to overstep Board member responsibility and policy and to use the situation to her advantage by keeping [Respondent Bienko] in a position where it will benefit her.”

In Count 3, Complainant states that after Respondent Strutin “made the motion to remove” Complainant at the March 28, 2022, Board meeting, Complainant “left the meeting and the building.” After her (Complainant’s) departure, another Board member asked Respondent Strutin the basis for her motion to remove Complainant from the position, which then caused Respondent Strutin to “engage[] in an attack of slander against [Complainant] without any evidence, making false accusations, defaming [Complainant’s] character, and tarnishing [Complainant’s] reputation.” According to Complainant, Respondent Strutin’s “attack” occurred not only during a public Board meeting (in front of students, staff, and the community) after she (Complainant) left the meeting without an opportunity to defend herself, but it can also be viewed on the internet (by Complainant’s friends, families, her (prospective) employer, and her spouse’s (prospective) employer. Complainant maintains that, despite Respondent Strutin’s repeated accusations, she (Complainant) has “never used social media to criticize the [D]istrict, [B]oard, staff, or administration,” and Respondent Strutin has never produced evidence to the contrary “because it did not happen.”

Because she commandeered a public Board meeting “for her own personal reasons and retaliation,” demonstrated “a lack of confidentiality by disclosing false accusations,” made statements she “knew to be untrue,” and “used her perceived positional power as [B]oard [P]resident and attempted to overstep [B]oard member responsibility, Complainant contends that Respondent Strutin violated *N.J.S.A. 18A:12-24.1(c)* because “she did [all] this without the knowledge of all [B]oard members, and colluded with the five board members [named as Respondents here] outside of [B]oard business with no regard to those that would be affected by her action”; violated *N.J.S.A. 18A:12-24.1(e)* because she “compromised and exploited the whole [B]oard by taking this personal private action when she engaged in this live attack at a publicly held live streamed meeting and made false accusations and defamed [Complainant’s] character in a public setting” and also “put the whole [B]oard in a compromising position, especially those that were blindsided by her actions”; and violated *N.J.S.A. 18A:12-24.1(g)* because “by publicly making false accusations at a public livestreamed meeting not only did she not provide accurate information, that was not in concert with all fellow [B]oard members, but she needlessly injured not only [Complainant] but [her] family members as the entire public ... can view [Respondent Strutin’s] slanderous attack on [Complainant’s] character.” Moreover, there is absolutely no evidence to support any of the slanderous claims made by Respondent Strutin.

In Count 4, Complainant maintains that at the Board meeting on March 28, 2022, Respondent Green made the following statement: “[Complainant] also contacted Hackettstown High School on her own ... that wasn’t in the best interest nor discussed with the [B]oard and

portrayed as representation from the [B]oard. That can't happen either." Because Respondent Green's accusations are "completely false and [were] stated as fact at a public live streamed meeting" when Complainant was not there to defend herself, Complainant alleges that Respondent Green violated *N.J.S.A. 18A:12-24.1(g)* because "[b]y publicly making false accusations at a public live streamed meeting not only did he not provide accurate information, that was not in concert with all fellow [B]oard members, he needlessly injured not only [Complainant] but [her] family ... [as anyone] can view [his] slanderous attack on [Complainant's] character." In addition, Respondent Green "has also attacked [Complainant's] deeply held religious and moral beliefs and has stated ... maybe you should send your kid to Pope John."

In Count 5, Complainant contends that, at the Board meeting on March 28, 2022, all named Respondents violated *N.J.S.A. 18A:12-24.1(c)* because "they all participated in a vote to remove [Complainant] and all voted yes, therefore they are all complicit in not confining their [B]oard action ... and did not care who was affected by their actions." Instead, all named Respondents "willingly went along with [Respondent] Strutin knowing she was in violation of the" Act.

In Count 6, Complainant asserts that, also at the Board meeting on March 28, 2022, all Respondents violated *N.J.S.A. 18A:12-24.1(g)* because they "voted to remove [Complainant] after hearing [Respondent] Strutin's slanderous accusations in public ... and needlessly injured [Complainant] and others by accepting inaccurate information and not objecting to that fact or to the fact that not all [B]oard members were made aware of the planned action." As such, and according to Complainant, Respondents "were complicit in the action of [Respondent] Strutin as they planned this action outside of [B]oard business and did not include the entire [B]oard."

B. Motion to Dismiss

In their Motion to Dismiss, Respondents state that, after Respondent Strutin "made a motion for [Complainant's] removal from liaison position," Complainant voluntarily decided, instead of staying and speaking up for herself, to leave the meeting (and the building). According to Respondents, while departing from the Board meeting, Complainant announced, "the Board would be hearing from her lawyer." In addition, when another Board member asked for Respondent Strutin's reasoning for the motion, she (Respondent Strutin) explained that Complainant "has been critical of the Board and the Administration in her public comments and emails." Per Respondents, Respondent Green also "added his input that [Complainant] ... had contacted the Hackettstown High School [and] 'portrayed [herself] as a representative of the Board.'"

As for the alleged violation of *N.J.S.A. 18A:12-24.1(a)* (in Count 2), Respondents argue that Complainant "failed to cite to or include a copy of any law, rule, regulation or court order pertaining to schools and thus failed to comply with the implementing regulation of the alleged violated statute." Moreover, Complainant "fails to recognize that the Board President has no ... power to remove any member from the Board: it can only be done by affirmative vote by a majority of the Board. Therefore, Respondents argue that the Complaint does not state a viable claim for a violation of *N.J.S.A. 18A:12-24.1(a)*.

Regarding the purported violations of *N.J.S.A.* 18A:12-24.1(c) (in Count 1 and Count 3), Respondents argue that “[n]o policy or plan was effectuated by making a motion to remove [Complainant] as the Hackettstown liaison and replace her with another Board member,” and no student or resident was “affected” by the change in the designee of the liaison. Respondents maintain that, “[a]ny Board Member is free to make a motion for the Board’s consideration and vote, without the need to provide advance notice to all Board members.” If an individual Board member disagrees with the motion, his/her recourse is to vote against it. As such, Respondents argue that Complainant has failed to state a claim for a violation of *N.J.S.A.* 18A:12-24.1(c).

As for the alleged violation of *N.J.S.A.* 18A:12-24.1(c) by all named Respondents (in Count 5), Respondents argue, “The individual members vote, but action can only be taken by the Board as a whole based upon the votes for a proposed motion. Therefore, no vote by an individual member of the Board can be considered any ‘action’ which may violate the [Code].” Respondents maintain, “it is the Board’s prerogative to manage whom it chooses to represent Allamuchy as liaison to the Hackettstown Board of Education.” Because a violation of *N.J.S.A.* 18A:12-24.1(c) cannot be sustained against Board members “for simply voting upon a motion proposed before them,” Respondents argue the alleged violation of *N.J.S.A.* 18A:12-24.1(c) by all named Respondents (in Count 5) must be dismissed.

Regarding the purported violations of *N.J.S.A.* 18A:12-24.1(e) (in Count 1 and Count 3), Respondents argue that Complainant did not provide any factual allegations that, if true, could suggest that Respondent Strutin “made any personal promises or took any action which could have compromised the Board.” Respondent Strutin’s stated rationale for why she made a motion to remove Complainant from the liaison position is protected free speech, and her “expressed concerns” do not have the potential to compromise the Board. A determination by the Commission that “any statement at a public meeting as an individual Board member has the potential to compromise the Board ... would both strip Board members of their First Amendment rights and handcuff them in contributing to open discussion at public meetings as individual Board members on all matters” Importantly, at the time she expressed her concerns, Respondent Strutin was speaking as a Board member “regarding what she understood to be improper actions by a fellow Board member,” and was not speaking as a private citizen regarding a personal matter outside of Board business.” Furthermore, Respondent Strutin’s statements did not “reveal[] any Board confidences.” Therefore, Respondents argue that the Complaint does not state a viable claim for violations of *N.J.S.A.* 18A:12-24.1(e).

As for the alleged violation of *N.J.S.A.* 18A:12-24.1(g) by Respondent Strutin (in Count 3), Respondents argue, “There was absolutely nothing about Respondent [Strutin’s] remarks that revealed any Board confidences” and they were “extremely general in nature.” Furthermore, Complainant has not provided any evidence to demonstrate that Respondent Strutin’s statements were inaccurate, nor that they were “other than reasonable mistake or personal opinion or [were] not attributable to developing circumstances.” Complainant’s disagreement with Respondent Strutin’s statements “does not render it based on incomplete information.” Furthermore, “[t]o the extent Complainant believes that [Respondent] Strutin’s characterization of her communication is unfair, [Respondent Strutin] has a First Amendment right to present those communications to the public for their consideration of her words.” However, mere disagreement is not a sufficient basis to find a violation. As such, Respondents argue that Complainant has failed to state a claim for a violation of *N.J.S.A.* 18A:12-24.1(g) by Respondent Strutin.

Regarding the purported violation of *N.J.S.A. 18A:12-24.1(g)* by Respondent Green (in Count 4), Respondents argue, “There was absolutely nothing about Respondent[] [Green’s] remarks that revealed any Board confidences, as [Respondent] Green was discussing occurrences with the Hackettstown High School.” Moreover, he did not “disclose personally identifiable details of anything [Respondent] Strutin said, merely commenting that directly contacting the High School as a Board member was out of line.” Because Complainant has not provided any evidence of any inaccuracy in Respondent Green’s statements, or any evidence that the substance of his statements was other than reasonable mistake or personal opinion, Respondent Green’s statements did not violate the Act. Respondents note that although Complainant may disagree with Respondent Green’s comment, “[m]ere disagreement with a Board member’s comments” does not violate the Act. As such, Respondents argue that Complainant has failed to state a claim for a violation of *N.J.S.A. 18A:12-24.1(g)* by Respondent Green.

As for the alleged violation of *N.J.S.A. 18A:12-24.1(g)* by all named Respondents (in Count 6), Respondents note that the “basis for [Complainant’s] claim is that because all [B]oard members were aware of the motion prior to its introduction and ‘accepted[ed] inaccurate information’ regarding the motion, they are ‘complicit’ in its passage.” However, other than Respondent Strutin and Respondent Green, “none of the other named Respondents made any statements regarding the motion other than to express their affirmative vote.” Because the Complaint fails to identify any statements made by Respondent Renaud, Respondent Christmann, Respondent Gaddy, and/or Respondent Bienko other than their affirmative vote for the motion, “there could be no confidential or inaccurate statements made by them which would potentially violate *N.J.S.A. 18A:12-24.1(g)*” As such, Respondents argue that Complainant has failed to state a claim for a violation of *N.J.S.A. 18A:12-24.1(g)* by all named Respondents (in Count 6).

Finally, and regarding the purported violation of *N.J.S.A. 18A:12-24.1(j)* (in Count 1), Respondents argue that Complainant has not provided any factual allegations suggesting that Respondent Strutin “acted on or attempted to resolve a complaint, or conducted an investigation or inquiry related to complaint ... prior to the failure of an administrative solution.” Moreover, Complainant failed to include “any mention of a complaint acted on by” Respondent Strutin. Therefore, Respondents argue that the Complaint does not state a viable claim for violations of *N.J.S.A. 18A:12-24.1(j)*.

C. Response to Motion to Dismiss

In response to the Motion to Dismiss, Complainant reaffirms her allegations and restates, Respondent Strutin “used a public board meeting to publicly attack [Complainant], make completely false and unsubstantiated allegations about [Complainant], slandered and defamed [her] character, all while it was being live streamed and all while [she] was not even present to defend [her]self.” In addition, “[i]t is one hundred percent factual that [Respondent Strutin] colluded with the other [named Respondents] and did not inform [B]oard member ... Prudenti of her action ahead of time because she knew she would not agree to it,” and also “one hundred percent factual that [Respondent Strutin’s] accusations are false and she can not (sic) substantiate them.”

As to Respondents' argument that they have First Amendment rights, Complainant contends that Respondent Strutin did not afford her the same right and "repeatedly made the claim that [Complainant] is no longer a private citizen and [does] not have First Amendment rights as a board member." In this same vein, Complainant argues Respondent Strutin "made the motion and subsequent attack on [Complainant's] character as a [B]oard member acting in her capacity as [B]oard president." Ultimately, Respondent Strutin and Respondent Green "made false accusations about [Complainant] at a public livestreamed [B]oard meeting that were for retaliatory purposes when [Complainant] was not present to defend [her]self or deny allegations. The intent was to defame [Complainant's] character in public."

As to the remaining Respondents, and the claim that "it is incomprehensible that [Complainant] could believe that voting on a motion during a public board meeting could somehow be a violation of the [Code]," Complainant argues the Board "acted and voted on information that they knew to be false and yet they went ahead and did it anyway because that was what was pre-arranged with the members that [Respondent] Strutin had already predetermined and colluded with." Complainant maintains her issue is not with the vote, but "the fact that they consciously voted on false information and a slanderous attack that is unethical." Complainant further maintains Respondents were "complicit in that they knew ahead of time when she [(Respondent Strutin)] chose to disclose only to those members who would agree with her and not the whole [B]oard and they were complicit in going along with blatantly false information intended to harm [Complainant]." Complainant asserts that she has provided "more than enough evidence that this was a malicious unethical act perpetrated by [Respondent] Strutin and supported by other [B]oard members to cause [Complainant] harm."

III. Analysis

A. 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 (Complainant), and determine whether the allegation(s), if true, could establish a violation(s) 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 Complainant has pled sufficient facts which, if true, could support a finding that any of the named Respondents violated *N.J.S.A. 18A:12-24.1(a)*, *N.J.S.A. 18A:12-24.1(c)*, *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(j)*.

B. Jurisdiction of the Commission

In reviewing the pleadings in this matter, 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. In this regard, 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)*.

With the jurisdiction of the Commission in mind, to the extent that Complainant seeks a determination from the Commission that the named Respondents, whether individually or

collectively, failed to remove a Board member for cause (as authorized by *N.J.S.A.* 18A:12-3); engaged in defamatory speech (whether slander or libel); engaged in “harassment” in violation of civil or criminal law; violated or otherwise infringed upon Complainant’s First Amendment right to freedom of religion; and to the extent that Respondents seek a determination from the Commission that Complainant has a disqualifying conflict of interest pursuant to *N.J.S.A.* 18A:12-2, the Commission advises that such determinations fall beyond the scope, authority, and jurisdiction of the Commission. Although both Complainant and Respondents may be able to pursue their respective causes of action(s) in the appropriate tribunal, the Commission is not the appropriate entity to adjudicate this issue(s). Accordingly, those claims are *dismissed*.

C. *Alleged Code Violations*

Complainant submits that, based on the conduct more fully detailed above, Respondent Strutin violated *N.J.S.A.* 18A:12-24.1(a) (in Count 2), *N.J.S.A.* 18A:12-24.1(c) (in Count 1 and Count 3), *N.J.S.A.* 18A:12-24.1(e) (in Count 1 and Count 3), *N.J.S.A.* 18A:12-24.1(g) (in Count 3), and *N.J.S.A.* 18A:12-24.1(j) (in Count 1); Respondent Green violated *N.J.S.A.* 18A:12-24.1(g) (in Count 4); and all named Respondents violated *N.J.S.A.* 18A:12-24.1(c) (in Count 5) and/or *N.J.S.A.* 18A:12-24.1(g) (in Count 6). The cited provisions of the Code provide:

- a. I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures.
- c. I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.
- 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.
- j. I will refer all complaints to the chief administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

Pursuant to *N.J.A.C.* 6A:28-6.4(a), violations of *N.J.S.A.* 18A:12-24.1(a), *N.J.S.A.* 18A:12-24.1(c), *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(j) need to be supported by certain factual evidence, more specifically:

- 1. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(a) shall include a copy of a final decision from any court of law or administrative agency of this State demonstrating that Respondents failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that Respondents brought about changes through illegal or unethical procedures.

3. Factual evidence of a violation of *N.J.S.A. 18A:12-24.1(c)* shall include evidence that Respondents took board action to effectuate policies and plans without consulting those affected by such policies and plans, or took action that was unrelated to Respondents' duty to (i) develop the general rules and principles that guide the management of the school district or charter school; (ii) formulate the programs and methods to effectuate the goals of the school district or charter school; or (iii) ascertain the value or liability of a policy.
5. Factual evidence of a violation of *N.J.S.A. 18A:12-24.1(e)* shall include evidence that Respondents made personal promises or took action beyond the scope of their duties such that, by its nature, had the potential to compromise the board.
7. Factual evidence of a violation of the confidentiality provision of *N.J.S.A. 18A:12-24.1(g)* shall include evidence that Respondents 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 Respondents 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 Respondents and evidence that establishes that the inaccuracy was other than reasonable mistake or personal opinion or was not attributable to developing circumstances.
10. Factual evidence of a violation of *N.J.S.A. 18A:12-24.1(j)* shall include evidence that Respondents acted on or attempted to resolve a complaint, or conducted an investigation or inquiry related to a complaint (i) prior to referral to the chief administrative officer, or (ii) at a time or place other than a public meeting and prior to the failure of an administrative solution.

Alleged Violation of N.J.S.A. 18A:12-24.1(a)
(Respondent Strutin, Count 2)

After a comprehensive review of the Complaint, the Commission finds that even if the facts as pled in the Complaint are proven true by sufficient credible evidence, they would not support a finding that Respondent Strutin violated *N.J.S.A. 18A:12-24.1(a)*. Despite being required by *N.J.A.C. 6A:28-6.4(a)(1)* to substantiate a violation of *N.J.S.A. 18A:12-24.1(a)*, Complainant has not provided **a copy of a final decision(s)** from any court of law or other administrative agency demonstrating or finding that Respondent Strutin violated any specific law(s), rule(s), or regulation(s) of the State Board of Education and/or court orders pertaining to schools, or that she brought about changes through illegal or unethical procedures, when she engaged in any of the actions/conduct set forth in the Complaint. Without the required final decision(s), and based on the record in its current form, the Commission dismisses the stated violation of *N.J.S.A. 18A:12-24.1(a)* in Count 2 (concerning Respondent Strutin).

Alleged Violation of N.J.S.A. 18A:12-24.1(c)
(Respondent Strutin, Count 1 and Count 3)
(All Respondents, Count 5)

Following its review of the Complaint, the Commission finds that even if the facts as alleged are proven true by sufficient credible evidence, they would not support a finding that Respondents violated *N.J.S.A. 18A:12-24.1(c)*. Even if Respondent Strutin made a motion to remove Complainant from her position as “Representative Liaison to Hackettstown High School” at the meeting on March 28, 2022, and did so “without the knowledge” of all Board members and/or in “collusion” with certain Board members (Count 1); even if Respondent Strutin, only after being asked by another Board member, publicly provided her reason(s)/justification for making the motion to remove Complainant (Count 3); and even if the named Respondents chose to vote in favor of Respondent Strutin’s motion (Count 5), there is still no evidence that any of the named Respondents, either individually or collectively, took action to effectuate a policy or plan without consulting those affected by such a policy or plan, or took action unrelated to their duties. Designating and/or changing the individual to serve as the Board’s liaison to Hackettstown High School, and voting on a pending motion do not constitute action to effectuate a “policy” or “plan,” and are clearly actions related to the duties and responsibilities of Board members. Although Complainant maintains that there was some kind of unethical “collusion” between Respondent Strutin and the other named Respondents, there is no evidence substantiating this claim. Therefore, the Commission finds that the purported violations of *N.J.S.A. 18A:12-24.1(c)* in Count 1 (Respondent Strutin), Count 3 (Respondent Strutin), and Count 5 (all named Respondents) should be dismissed.

Alleged Violation of N.J.S.A. 18A:12-24.1(e)
(Respondent Strutin, Count 1 and Count 3)

After review of the Complaint, the Commission finds that even if the facts as argued are proven true by sufficient credible evidence, they would not support a finding that Respondent Strutin violated *N.J.S.A. 18A:12-24.1(e)*. Assuming that Respondent Strutin “engaged in [a] live attack [of Complainant] at a publicly held live streamed meeting and made false accusations” about Complainant, and this “attack” put “the whole [B]oard in a compromising position, especially those that were blindsided by her actions” (Count 1/Count 3), there is an absence of evidence that Respondent Strutin made any kind of personal promise, or that she took action beyond the scope of her duties that had the potential to compromise the Board. Instead, when asked by a fellow Board member why she was making the motion to replace Complainant as the liaison to Hackettstown High School, Respondent Strutin provided her reasoning for the motion. Although it is clear that Complainant disagrees with the statements made by Respondent Strutin, publicly providing a rationale for a motion is certainly within the scope of one’s duties and responsibilities as a Board member. As such, the Commission finds that the stated violations of *N.J.S.A. 18A:12-24.1(e)* in Count 1 (Respondent Strutin) and Count 3 (Respondent Strutin) should be dismissed.

Alleged Violation of N.J.S.A. 18A:12-24.1(g)
(Respondent Strutin, Count 3)
(Respondent Green, Count 4)
(All Respondents, Count 6)

Based on its review of the Complaint, the Commission finds that even if the facts as contended are proven true by sufficient credible evidence, they would not support a finding that Respondents violated *N.J.S.A. 18A:12-24.1(g)*. Even if Respondent Strutin made “false accusations at a public ... meeting” that were inaccurate (i.e., that Complainant used social media to denigrate the Board and its administration) and “needlessly injured [Complainant],” her family, and her friends (Count 3); even if Respondent Green made a false accusation at a public (and livestreamed) Board meeting (i.e., that Complainant contacted Hackettstown High School “on her own representative order that wasn’t in the best interest nor discussed with the [B]oard”) that “needlessly injured [Complainant],” her family, and her friends (Count 5); and even if all named Respondents “voted to remove [Complainant] after hearing [Respondent] Strutin’s slanderous accusations in public,” Complainant has not identified the law, regulation, court order of this State, Board policy, procedure, or practice codifying the professed confidential nature of the information shared by Respondents (either individually or collectively), and has not provided any evidence that the inaccurate statements offered by Respondent Strutin and Respondent Green were “other than reasonable mistake or personal opinion” or “not attributable to developing circumstances.” In this way, it is not enough for Complainant to submit that a school official has disclosed confidential information, the aspersion must be supported by evidence. Moreover, and as noted by Respondents, other than voting in favor of the motion put forth by Respondent Strutin (and saying “yes”), Respondent Renaud, Respondent Christmann, Respondent Gaddy, and/or Respondent Bienko did not say anything at the Board meeting related to Complainant’s removal. Accordingly, the Commission finds that the purported violations of *N.J.S.A. 18A:12-24.1(g)* in Count 3 (Respondent Strutin), Count 4 (Respondent Green), and Count 6 (all named Respondents) should be dismissed.

Alleged Violation of N.J.S.A. 18A:12-24.1(j)
(Respondent Strutin, Count 1)

Following its review of the Complaint, the Commission finds that even if the facts as claimed are proven true by sufficient credible evidence, they would not support a finding that Respondent Strutin violated *N.J.S.A. 18A:12-24.1(j)*. Complainant maintains that there “was nothing in [her] role as Hackettstown liaison that was a level of failure and in need of administrative solution and nothing that [Respondent] Strutin needed to address publicly nor refer as a complaint.” However, notably absent from the Complaint is any evidence that Respondents, either individually or collectively, received an external complaint(s) that they, either individually or collectively, then attempted to address outside the administrative chain of command. Although it seems clear that Respondents received external complaints about Complainant’s service as the liaison to Hackettstown High School, those kinds of complaints do not warrant or require submission to District administration for resolution, but rather referral to the Board so that it can decide, as a matter of governance, how to handle and resolve those complaints and concerns. In this case, a majority of the Board determined that the appropriate course was to replace Complainant as the liaison; a decision wholly within its authority.

Therefore, the Commission finds that the stated violation of *N.J.S.A.* 18A:12-24.1(j) in Count 1 (Respondent Strutin) should be dismissed.

IV. Decision

Based on the foregoing, and in reviewing the facts in the light most favorable to the non-moving party (Complainant), the Commission voted to *grant* the Motion to Dismiss in its entirety because Complainant failed to plead sufficient credible facts to support a finding that Respondent Strutin violated *N.J.S.A.* 18A:12-24.1(a) (in Count 2), *N.J.S.A.* 18A:12-24.1(c) (in Count 1 and Count 3), *N.J.S.A.* 18A:12-24.1(e) (in Count 1 and Count 3), *N.J.S.A.* 18A:12-24.1(g) (in Count 3), and/or *N.J.S.A.* 18A:12-24.1(j) (in Count 1); Respondent Green violated *N.J.S.A.* 18A:12-24.1(g) (in Count 4); and/or all named Respondents violated *N.J.S.A.* 18A:12-24.1(c) (in Count 5) and/or *N.J.S.A.* 18A:12-24.1(g) (in Count 6).

Pursuant to *N.J.S.A.* 18A:12-29(b), the Commission hereby notifies Complainant and Respondents 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: September 14, 2022

***Resolution Adopting Decision
in Connection with C39-22***

Whereas, at its meeting on August 23, 2022, the School Ethics Commission (Commission) considered the Complaint, the Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and the response to the Motion to Dismiss submitted in connection with the above-referenced matter; and

Whereas, at its meeting on August 23, 2022, the Commission discussed granting the Motion to Dismiss in its entirety for failure to plead sufficient credible facts to support the allegations that Respondent Strutin violated *N.J.S.A.* 18A:12-24.1(a) (in Count 2), *N.J.S.A.* 18A:12-24.1(c) (in Count 1 and Count 3), *N.J.S.A.* 18A:12-24.1(e) (in Count 1 and Count 3), *N.J.S.A.* 18A:12-24.1(g) (in Count 3), and/or *N.J.S.A.* 18A:12-24.1(j) (in Count 1); Respondent Green violated *N.J.S.A.* 18A:12-24.1(g) (in Count 4); and/or all named Respondents violated *N.J.S.A.* 18A:12-24.1(c) (in Count 5) and/or *N.J.S.A.* 18A:12-24.1(g) (in Count 6); and

Whereas, at a special meeting on September 14, 2022, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on August 23, 2022; 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 September 14, 2022.

Kathryn A. Whalen, Esq.
Director, School Ethics Commission