

Before the School Ethics Commission
Docket Nos.: C58-22, C59-22, C60-22, and C61-22 (Consolidated)
Decision on Motion to Dismiss

**William and Mary Ann Moretti,
Complainants**

v.

SEC Docket No.: C58-22

**Joshua Aikens, Lisa Carlson, Rebecca
Brown, John Kanson, Melissa Geaney,
Fredrick Greaver, Kathleen Zagula,
Karen Mitchell, and Erin Vogler,
Lafayette Township Board of Education,
Sussex County,
Respondents**

**William and Mary Ann Moretti,
Complainants**

v.

SEC Docket No.: C59-22

**Jennifer Cenatiempo and Karen Roccisano,
Lafayette Township Board of Education,
Sussex County,
Respondent**

**William and Mary Ann Moretti,
Complainants**

v.

SEC Docket No.: C60-22

**Rebecca Brown,
Lafayette Township Board of Education,
Sussex County,
Respondent**

**William and Mary Ann Moretti,
Complainants**

v.

SEC Docket No.: C61-22

**Erin Siipola,
Lafayette Township Board of Education,
Sussex County,
Respondent**

I. Procedural History

The above-captioned consolidated matter arises from four (4) separate but related Complaints filed by William Moretti (Complainant W. Moretti) and Mary Ann Moretti (Complainant M. Moretti) (collectively referred to as Complainants) on May 17, 2022. In the matter docketed as **C58-22**, Complainants allege that Joshua Aikens (Respondent Aikens), Lisa Carlson (Respondent Carlson), Rebecca Brown (Respondent Brown), John Kanson (Respondent Kanson), Melissa Geaney (Respondent Geaney), Fredrick Greaver (Respondent Greaver), Kathleen Zagula (Respondent Zagula), Karen Mitchell (Respondent Mitchell), and Erin Vogler (Respondent Vogler), members of the Lafayette Township Board of Education (Board), violated *N.J.S.A.* 18A:12-24.1(a) (in Count 1; and in Count 2 by Respondent Aikens), *N.J.S.A.* 18A:12-24.1(b) (in Counts 1-2; in Count 2 by Respondent Aikens; and in Count 2 by Respondent Carlson), *N.J.S.A.* 18A:12-24.1(f) (in Count 5, but by Respondent Aikens only), *N.J.S.A.* 18A:12-24.1(i) (Count 4), and *N.J.S.A.* 18A:12-24.1(j) (in Count 3) of the Code of Ethics for School Board Members (Code).

In the matter docketed as **C59-22**, Complainants assert that Jennifer Cenatiempo (Respondent Cenatiempo) and Karen Roccisano (Respondent Roccisano), administrators employed by the Board, violated *N.J.S.A.* 18A:12-24(b). In the matter docketed as **C60-22**, Complainants contend that Respondent Brown, a member of the Board, violated *N.J.S.A.* 18A:12-24(c), as well as *N.J.S.A.* 18A:12-24.1(a) and *N.J.S.A.* 18A:12-24.1(b) of the Code. Finally, in the matter docketed as **C61-22**, Complainants submit that Erin Siipola (Respondent Siipola), an administrator employed by the Board, violated *N.J.S.A.* 18A:12-24(b).

On May 19, 2022, the Complaints were served on the named Respondents in each matter via electronic mail, notifying them that ethics charges had been filed against them with the School Ethics Commission (Commission), and advising that they had twenty (20) days to file a responsive pleading.^{1, 2} On June 13, 2022, Respondents filed Motions to Dismiss in Lieu of Answers (Motions to Dismiss) in each matter, and Complainants filed responses to each Motion to Dismiss on July 6, 2022 (C58-22), and July 7, 2022 (C59-22, C60-22, and C61-22).

By correspondence dated August 30, 2022, the parties were separately advised that, pursuant to its authority as set forth in *N.J.A.C.* 6A:28-6.6, the Commission determined to consolidate the matters docketed as C58-22, C59-22, C60-22, and C61-22. The Commission's decision to consolidate the above-noted Complaints was based on a review of (1) the identity of the parties in each of the matters; (2) the nature of all questions of fact and law respectively involved; (3) the advisability generally of disposing of all aspects of a controversy in a single proceeding; and (4) other matters appropriate to a prompt and fair resolution of the issues.

¹ In order to conduct business during the Coronavirus (COVID-19) pandemic, the Commission implemented an electronic filing system, which remains a permissible method by which the Commission and parties can effectuate service of process. Consequently, service of process was effectuated by the Commission through electronic transmission only.

² On May 23, 2022, which was before Respondents filed a responsive pleading, Complainants filed additional/supplemental documentation in connection with Docket No. C58-22 and C59-22. Complainants' additional/supplemental filing was served on the named Respondents on May 25, 2022.

N.J.A.C. 6A:28-6.6(b). More specifically, because each Complaint was filed by the same Complainants; although the named Respondent(s) in each matter is different, the named Respondents are represented by the same attorney; and because each Complaint alleges that the same general conduct/action forms the basis for the alleged violations of the School Ethics Act, the Commission determined that, in the interest of efficiency, it can resolve all four (4) Complaints in one consolidated matter.

Following consolidation, and by correspondence dated September 6, 2022, the parties were advised that the matter would be placed on the Commission's agenda for a special meeting on September 14, 2022, in order to make a determination regarding the Motions to Dismiss. The next day (September 7, 2022), Complainants filed supplemental Exhibits/documentation in support of their claims, and asked the Commission to consider their supplemental filing along with the Exhibits/documentation previously submitted.³ Thereafter, and at a special meeting on September 14, 2022, the Commission considered the parties' filings and all related Exhibits/documentation, and at a special meeting on October 17, 2022, the Commission adopted a decision granting the Motions to Dismiss in their entirety because Complainants failed to plead sufficient credible facts to support their claimed violations of the Act.

II. Summary of the Pleadings

The following information, offered by way of background, is relevant to each Complaint in this consolidated matter: Complainants have a "disabled, communication impaired child" who attends school in the Lafayette Township School District (District); in January 2020, the child reported to Complainants that the child was bullied by "all girls" in class, except for one; Complainants told their child to report the incident to the child's teachers the next day; although Complainants' child, and another child, reported the incident to two teachers the next day, neither teacher acted "under [the New Jersey Anti-Bullying Bill of Rights (ABR)] statutes to intervene and protect" Complainants' child and, as a result, their child was bullied again, thereby causing Complainants to file a report/complaint with [the District's Harassment, Intimidation, and Bullying (HIB)] coordinator; a "flawed investigation follow[ed] with a falsified investigative report and statements from staff resulting in a decision of no HIB"; Complainants' child disagreed with what was stated in the report; before Complainants appealed the determination on their child's behalf, they asked to review video evidence (*the bullying of their child is alleged to have occurred in "multiple areas" over a time period of approximately one week or longer); after Complainant M. Moretti reviewed "some" brief clips with Respondent Cenatiempo (the Superintendent), the administration stopped cooperating, "and the school and Board escalated a hostile environment"; upon viewing another clip on another day, Complainant M. Moretti "saw an act from behind unable to be reported by child and child cowering in fear from the harassments from behind" (per Complainants, their child, could not articulate what transpired because of the child's disability); Respondent Cenatiempo "quickly dismissed what was witnessed and shut down the projector and review, instead of chang[ing] the HIB report/decision"; and when both Complainants asked "to come back to finish watching the clips to see what happened to their child and prepare for an appeal ... they were met with the

³ Although, technically, Complainants' filing is not permitted by the Commission's regulations, the Commission accepted and considered the substance of the supplemental Exhibits/documentation when reviewing the merits of Respondents' Motion to Dismiss.

[B]oard’[s] attorney denying all cooperation in a HIB investigation and denying them any knowledge of the extent of harm to their child.” Instead of “fairly and without discrimination utiliz[ing] this video evidence critical to disabled child to ensure his safety, the Board ... has used their attorney to suppress this evidence necessary to prove Complainants’ child was bullied, give consequences to bullies under statute, and put protections and counseling in place”

In addition to the factual information noted above, there are also related legal proceedings relevant here. More specifically, Complainant M. Moretti filed a petition of appeal, Agency Ref No. 94-5/20, and EDU 05225-20, with the Acting Commissioner of Education (Commissioner) on May 12, 2020, appealing the District’s Anti-Bullying Coordinator’s finding that her child was not the victim of HIB, and principally seeking, by way of relief, “the production of video evidence maintained by the ... Board ... related to a [HIB] complaint.” Following transmittal to the Office of Administrative Law (OAL), Administrative Law Judge Jude-Anthony Tiscornia (ALJ Tiscornia) issued an *Initial Decision* (on or about August 7, 2021) finding that Complainant failed to exhaust her administrative remedies because she refused to appear before the Board for a hearing to dispute the Anti-Bullying Coordinator’s findings and, because of Complainant M. Moretti’s failure to appear, the Board did not issue a decision regarding the appeal.

Following the issuance of ALJ Tiscornia’s *Initial Decision*, Complainant M. Moretti filed an appeal with the New Jersey Superior Court, Appellate Division, and sought to supplement the record to show that the Board had, in fact, rendered a decision. In light of her filing, the Department of Education filed a Motion for Remand to allow Complainant M. Moretti’s documents to be considered by ALJ Tiscornia “with instructions that, if it is found that the [Board] had, in fact, rendered such a decision,” then the petition of appeal would be ripe for adjudication. The remanded petition of appeal was subsequently transmitted back to ALJ Tiscornia on August 24, 2021.

A hearing on remand was ultimately held on December 8, 2021. At this scheduled hearing, Complainant M. Moretti refused to provide proof that, as claimed, the Board had already rendered an HIB decision. Consequently, in his *Initial Decision (On Remand)* issued on December 9, 2021, ALJ Tiscornia again determined that “an HIB hearing was never conducted in front of the Board ... and thus, no corresponding decision was rendered by the Board” regarding Complainant M. Moretti’s “appeal of the [Anti-Bullying Coordinator’s] finding that no HIB violation occurred.”

While Agency Ref No. 94-5/20, and EDU 05225-20 was proceeding on appeal (and on remand), Complainant M. Moretti filed a second petition of appeal, Agency Docket No. 216-11/21, and EDU 546-2021N, with the Commissioner on November 19, 2021, and alleged that the Board violated the ABR stemming from the same set of facts and circumstances discussed herein. Following receipt of the petition, the Board filed a motion for summary decision and contended that the petition was untimely because the Board had rendered its HIB decision in March 2020 and, therefore, Complainant M. Moretti’s filing in November 2021 was well beyond

ninety (90) days.⁴ On December 20, 2021, the Commissioner issued a decision stating, in relevant part:

...

Furthermore, the Commissioner notes that neither an Anti-Bullying Coordinator's report, nor meeting minutes reflecting a Board vote to approve that report, meet the Board's obligations under *N.J.S.A.* 18A:37-15(e) to issue a decision in writing to affirm, reject, or modify the decision of the superintendent. Therefore, the Board is directed to issue a written decision affirming, rejecting, or modifying the Superintendent's HIB decision within seven days of the date of this decision, and to submit that decision to the petitioner and the Office of Controversies and Disputes.

The Commissioner also notes that there is an ongoing dispute in Dkt. No. 94-5/20 regarding petitioner's discovery request for video evidence that she alleges supports her claim regarding the merits of the Board's HIB decision. The Commissioner has previously declined to order the disclosure of the video because it did not appear that the Board's decision was ripe for review. However, as the Board will be issuing a decision pursuant to the Commissioner's directive herein, which will be ripe for review, the Board is ordered to provide a copy of the video to petitioner within ten days after the receipt of this decision.

...

Following the Commissioner's December 20, 2021, decision, the Board filed a motion for reconsideration of the order to supply Complainant M. Moretti with a copy of the video she was seeking. In her January 19, 2022, letter decision, the Commissioner denied the Board's position, and affirmed the directive for the Board to provide Complainant M. Moretti with the video requested. Thereafter, and also on January 19, 2022, this second petition of appeal was transmitted to the OAL, and *remains pending*.

Returning to Complainant M. Moretti's first petition of appeal, Agency Ref No. 94-5/20, and EDU 05225-20, the Commissioner issued a Final Decision on March 4, 2022. As stated therein, the Commissioner determined that because, in two prior "decisions," Agency Ref No. 94-5/20; EDU 05225-20, she ordered the Board to provide a copy of the requested video to Complainant M. Moretti; because she determined that the HIB decision was ripe for review and any argument by the Board that Complainant M. Moretti had failed to exhaust administrative remedies was without merit; and because Complainant M. Moretti filed a second petition of appeal, Agency Docket No. 216-11/21; EDU 546-2021N, that was transmitted to the OAL, the Commissioner determined "there are no outstanding disputes remaining in this case."

⁴ At the time the Board made this argument, it was simultaneously arguing in another matter, Agency Ref No. 94-5/20, and EDU 05225-20, that a decision had *not* been rendered by the Board.

C58-22 CE
**(Respondents Aikens, Carlson, Brown, Kanson, Geaney, Greaver,
Zagula, Mitchell, and Vogler – Board members)**

The Complaint

In Count 1, Complainants assert that from “December 20, 2021, previous and ongoing,” Respondents (the individual members of the Board) have violated *N.J.S.A.* 18A:12-24.1(a) because they “still refuse to comply with enforcing all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools.” According to Complainants, the Board “is in contempt to comply with an order from [the] Commissioner of Education involving school laws, safety, education ...” and their defiance has caused educational and other harm to their child. Complainants also argue that Respondents have violated *N.J.S.A.* 18A:12-24.1(b) because Respondents have not made decisions in terms of the educational welfare of Complainants’ child by suppressing the video and the evidence ordered by the Commissioner to be provided to Complainants. Instead of complying with the order, Respondents “choose to defy the order continuing the educational harm” to their child. Respondents have further violated *N.J.S.A.* 18A:12-24.1(b) because they have “exhibited extreme discrimination to [their] child by making a false report to child services and causing child further trauma and harm” Complainants maintain that Respondents are “willfully suppressing evidence of harm to child ... and are obstructing policies to protect [the child] by taking advantage of [the child’s] disability suppressing videos in [the child’s] defense.” In addition, Respondents “have knowingly and willfully defamed Complainants ... and continue to act outside of the orders of the Commissioner and educational welfare of a child.”

In Count 2, Complainants note that, in addition to writing emails and letters to the District’s administration pleading for resolution, they also attended and spoke at public Board meetings in an attempt “to appeal to Respondents” for a “fair and reasonable” resolution. Their pleas for help were ignored and, in some instances, “mocked” by certain Respondents (Respondent Carlson). In addition, Respondent Aikens “thought it was comical to not wear a mask in defiance of [an] executive order,” and also publicly “stating again with a grin ‘there is nothing on the videos’ admitting they have been either maliciously causing educational harm or there are safety and school law violations on the videos they suppress ‘with nothing on them.’” After being asked to leave the Board meeting on December 9, 2021, Board member Carlson “called out mockingly the same exact way as she did in the previous meeting ‘Have [a] nice night’ sarcastically.” Per Complainants, at that meeting, and despite their compliance to leave the meeting, someone pulled the “lockdown alarm” “for no reason.” Complainants note that, after this meeting, Respondent Aikens “took the mocking to his social media account by mimicking [Respondent] Carlson’s sarcastic comments at the Board meeting on his Twitter account adding emojis for sarcastic emphasis.” More specifically, Respondent Aikens’ social media post stated, “Have a good night everyone” with what appears to be a winking emoji.

Based on the above, Complainants assert Respondent Aikens violated *N.J.S.A.* 18A:12-24.1(a) because he “refused to comply with enforcing all laws, rules and regulations” by refusing to wear a mask at a public Board meeting, and placed “those in attendance in health jeopardy.” In addition; Respondents violated *N.J.S.A.* 18A:12-24.1(b) because they have “not

made decisions in terms of the educational welfare of Complainants['] child and have exhibited discrimination towards [their child] by defaming and legally attacking Complainants”; Respondent Carlson violated *N.J.S.A.* 18A:12-24.1(b) because she has “not made decisions in terms of the educational welfare of Complainants['] child and [has] exhibited extreme discrimination towards Complainants [by] publicly mocking them twice making joke of educational harm to a child”; and Respondent Aikens violated *N.J.S.A.* 18A:12-24.1(b) because he has “not made decisions in terms of the educational welfare of Complainants['] child and [has] exhibited extreme discrimination towards Complainants [by] publicly mocking them and escalating it to posting it on social media to further taunt and upset [Complainants] while refusing to act in terms of strictly educational welfare of child without bias.”

In Count 3, Complainants maintain that after their child was bullied, Ms. Roccisano was “allegedly” counseling their child per the ABR. When Complainant M. Moretti asked to speak with Ms. Roccisano before a session began (remotely) and before her child “got on” the call, Complainant M. Moretti explained how her child was upset about the bullying and needed to speak with Ms. Roccisano. According to Complainants, Ms. Roccisano “abruptly stated she ‘was not comfortable,’” hung up on Complainant M. Moretti, and “abandoning [the] child in violation of her own licensed professions [(sic)] code of ethics ... harming [the] child again.” When Complainants then asked the District to provide outside counseling due to Ms. Roccisano’s “abandonment” of their child, “a false and defamatory reason” was given by Ms. Roccisano and Dr. Cenatiempo (Superintendent) for Ms. Roccisano’s “abandonment.” Complainants then “followed [B]oard procedure,” and requested a “Staff Complaint hearing.” Although it was initially denied, the “Staff Complaint hearing” was scheduled three months later, but Complainants were advised that the meeting would be with Board counsel. Because the timing of the hearing was near the holidays, because their child would be within earshot, and because they were not confident the meeting would resolve their concerns, Complainants asked for a new date, but Board counsel advised that if they did not attend the meeting as scheduled, “they would lose [their] chance at [a] hearing.” The meeting proceeded as planned, and Complainants’ child heard the entirety of the hearing. Per Complainants, the “meeting was only a sham for their attorney who was secretly recording it to try to substantiate the defamatory remarks he and Respondents have made in retaliation of the litigation demanding ... the issue to be resolved.” It is Complainants’ belief that Respondents had no intention of resolving their complaint, and Complainants were not permitted to ask questions of the “staff accused.”

For these reasons, Complainants assert Respondents violated *N.J.S.A.* 18A:12-24.1(j) because they “failed to act on complaints or follow their own [B]oard policy and procedure as developed through the State Board of Education regulations (one complaint was issued for [Respondent] Cenatiempo and one for [Respondent] Roccisano as they both falsely defamed Complainants as excuse for denying mental health service to [their] child).”

In Count 4, Complainants contend that “in November 2021 and ongoing,” they contacted a teacher to determine why the District’s teachers were hurting their family, and the teacher advised Complainant M. Moretti “that they have to do what the lawyer the Board hired to defame Complainants tells them to do, including ignoring and harming [their] child ... [by] refusing to educate [the child] like [the child’s] peers.” According to Complainants, the teacher informed them that the teachers were instructed by the Board and Board counsel to “literally and

summarily ignore any emails from Complainants, refuse to answer parents about educational program and placement having isolated child from ‘class’ in a remedial reading and math group” in violation of their child’s “educational rights.” As such, Complainants contend Respondents violated *N.J.S.A. 18A:12-24.1(i)* because they are “not supporting the teachers and staff as educators to do their job to educate Complainants[’] child without discrimination and bias causing irreparable harm to child in disregard of [the child’s] educational and emotional welfare.”

In Count 5, Complainants state that Respondent Aikens is the “president of a partisan political and religious group with specific views” and he “promotes his beliefs in” the District. Therefore, Complainants assert Respondent Aikens violated *N.J.S.A. 18A:12-24.1(f)* because he “holds a presidency position at a partisan group in violation of the Code ... by imparting his own views into the decisions that affect all students, no matter religion or race or social standing. These views affected his compliance with a mandated order to wear masks in school for the health of students and staff and discriminate against those that do not share his specific beliefs.”

Finally, Complainants note they “are aware that they have stated or referenced some violations passed the 180 day occurrence however due to the ongoing and connected current violations feel the [Commission] should consider all acts that violate [the Act] due to the egregious and malicious acts and ‘non’ acts (refusing to comply with order regarding school laws)” that have affected their family and the welfare of their child.

Motion to Dismiss

In their Motion to Dismiss, and as for the alleged violation of *N.J.S.A. 18A:12-24.1(a)*, Respondents first argue that although the Commissioner of Education instructed the Board to provide the video in question to Complainants, Respondents “dispute [Complainants’] contention that [they] were not provided this discovery,” and note that Complainants were provided with the “links to downloadable video clips totaling approximately six hours of footage” Respondents maintain that, due to the “unduly burdensome and overly broad” nature of the discovery request (for a full month of video), the Board “offered to arrange an inspection at a room within the school, with security present, so long as they [(Complainants)] agree not to record any of the video that they view.” Complainants were also “welcome to compile a list of any video clips and respective time stamps ... relevant to their appeal,” and the Board would review their list and advise of its position. As such, the Complaint does not state a viable claim for violations of *N.J.S.A. 18A:12-24.1(a)*.

Regarding the purported violation of *N.J.S.A. 18A:12-24.1(b)*, Respondents argue Complainants “cannot point to any decisions taken by” any of the named Respondents that were “contrary to the educational welfare of” children. To the extent that Complainants claim that the named Respondents made a “decision” when they failed to produce certain video evidence pursuant to the Commissioner’s directive, Respondents argue that Complainants were provided with downloadable links to view. Further, even if Respondent Carlson and/or Respondent Aikens “publicly mocked” Complainants, their actions did not amount to willfully making a decision contrary to the educational welfare of children or taking deliberate action to obstruct the

programs and policies designed to meet the individual needs of all children.” Therefore, the Complaint does not state a viable claim for violations of *N.J.S.A. 18A:12-24.1(b)*.

As for the alleged violation of *N.J.S.A. 18A:12-24.1(f)*, Respondents contend Complainants did not provide any evidence that Respondent Aikens “surrendered his independent judgment to special interest or partisan political groups, such as ARISE NJ, or used the schools for personal gain or for the gain of his friends.” Moreover, Respondents assert Complainants do not specify any action that Respondent Aikens took on behalf of or at the request of ARISE NJ. Respondents further contend that, although Respondent Aikens did not wear a mask during a public Board meeting, Complainants did not provide any evidence demonstrating that he did not wear the mask at the request of ARISE NJ. As such, the Complaint does not state a viable claim for violations of *N.J.S.A. 18A:12-24.1(f)*.

Regarding the purported violation of *N.J.S.A. 18A:12-24.1(i)*, Respondents maintain that Complainants “make vague, broad sweeping allegations of the Board interfering with [their child’s] education” as it relates to information provided by a teacher; however, Complainants do not identify which Respondent, if any, directed staff members to ignore Complainants and their requests regarding their child’s education. Respondents submit that Board members are “not privy to individual student files or placements” and, therefore, Respondents “would not be able to take any actions” related to the education of Complainants’ child. Moreover, Respondents maintain they did not fail to comply with the Commissioner’s order to provide the video, but, even if they did, “such refusal would not hinder school personnel in the proper performance of their duties.” Therefore, the Complaint does not state a viable claim for violations of *N.J.S.A. 18A:12-24.1(i)*.

Finally, as for the alleged violation of *N.J.S.A. 18A:12-24.1(j)*, Respondents argue Complainants did not provide “any factual allegations” that Respondents “acted on or attempted to resolve” the HIB complaint nor that Respondents “conducted an investigation into the HIB complaint prior to it being addressed by” the Superintendent or the administration. As to Complainants’ “staff complaint,” Complainants have not demonstrated that Respondents “acted on or attempted to resolve the complaint or conducted an investigation into the complaint” before the Superintendent or the administration were able to address it. As such, the Complaint does not state a viable claim for a violation of *N.J.S.A. 18A:12-24.1(j)*.

Response to the Motion to Dismiss

In response to the Motion to Dismiss, Complainants reaffirm all of their factual allegations, and reiterate that they filed their Complaint because of Respondents’ “willful refusal to follow [s]chool statutes and laws and [the] Commissioner[’s] order.” Complainants maintain they “have not been provided the ordered video,” and they have “only been provided very ‘selective’ video for download” in violation of *N.J.S.A. 18A:12-24.1(a)*. Complainants argue that Respondents’ “gross exaggeration of the amount of video is beyond ridiculous.” Complainants assert their request for video was “very precise and reasonable,” and at counsel’s request, Complainants “graciously redacted further.” Complainants contend there is no excuse for Respondents’ failure to comply with the Commissioner’s order.

As to a violation of *N.J.S.A.* 18A:12-24.1(b), Complainants reassert Respondents have “acted contrary to the educational welfare of their child in the HIB investigation and obstruction to Complainants[’] right to appeal their child[’s] HIB decision ... benefitting [their] own child and any adverse entry to [their] child’s educational records.”

Regarding Respondent Aikens, Complainants reaffirm he “violated an executive order from the Governor” because he is “against masks” and “placed the school and community at risk.”

For these reasons, and based on the facts in their Complaint and the related Exhibits, Complainants assert the Complaint should not be dismissed.

C59-22 PC
(Respondent Cenatiempo (Superintendent) and
Respondent Roccisano (School Counselor))

The Complaint

In addition to the facts set forth above pertaining to the consolidated matter generally, Complainants note that, while Complainant M. Moretti was viewing a video clip with Respondent Cenatiempo, she “saw an act from behind unable to be reported by child and child cowering in fear from the harassments from behind.” Respondent Cenatiempo “quickly dismissed what was witnessed and shut down the projector and review, instead of change [(sic)] the HIB report/decision.” Further, instead of ensuring their child’s safety, the Board “has used their attorney to suppress this evidence necessary to prove Complainants[’] child was bullied, give consequences to bullies under statute, and put protections and counseling in place that child was unjustly denied” by Respondent Roccisano “in violation of NJ ABR statutes and laws.”

According to Complainants, “Respondents are using the privileges of the Board paid attorney to hide their violations in school laws. In the case of [Respondent] Cenatiempo not following NJ ABR procedures [a]nd falsifying a HIB investigative report and in the case of [Respondent] Roccisano violations in the Social Worker Code of Ethics when she abandoned a child she was ‘treating’ in a mental health crisis, ag[a]in for benefit of others, not acting in terms of welfare of [their] child.” Further, Respondent Roccisano “failed to counsel [their] child in violation of NJ-ABR and in fact abandoned [a] child in mental health crisis in violation of the Social Worker Code of Ethics after agreeing to counsel [the child]” Per Complainants, Respondent Roccisano “also made a false and defamatory report to child services in retaliation of [their (Complainants)] ethics [complaints] knowing she ca[n] use her position and tax payer and Board paid attorney to shield her from her defamatory comments”

On December 20, 2021, the Board was “finally ordered to provide copies of the videos to Complainants so they could finally resolve the issue” However, “the Board has been in direct defiance of [the] Commissioner’s order ... continuing educational harm and other legal and financial harm to Complainants.” Instead of producing the video, the Board has deliberately and purposely defied the Commissioner’s order.

Based on the facts above, and from “March 2020, previous, and ongoing,” Complainants allege that Respondent Cenatiempo and Respondent Roccisano violated *N.J.S.A.* 18A:12-24(b) because they are “using privilege of tax payer and Board paid attorney to suppress evidence of HIB and their violations in NJ ABR and school laws and [v]iolations in the Social Worker Code of Ethics,” all without regard to Complainants’ child. In addition, although Respondent Cenatiempo is no longer employed by the Board, the Board continues to pay her legal fees in related litigation.

Complainants additionally allege Respondent Roccisano violated *N.J.S.A.* 18A:12-24(b) from “November 2021 and ongoing,” because she is “using privilege of tax payer and Board paid attorney to make false statements without fear of retaliation and with legal protection excusing her from subpoena appearance and answering to her false statements causing harm.”

Motion to Dismiss

In their Motion to Dismiss, Respondents first argue that although the Commissioner of Education instructed the Board to provide the video in question to Complainants, Respondents “dispute [Complainants’] contention that [they] were not provided this discovery,” and note that Complainants were provided with the “links to downloadable video clips totaling approximately six hours of footage” Respondents maintain that, due to the “unduly burdensome and overly broad” nature of the discovery request for a full month of video, the Board “offered to arrange an inspection at a room within the school, with security present, so long as they [(Complainants)] agree not to record any of the video that they view.” Complainants were also “welcome to compile a list of any video clips and respective time stamps . . . relevant to their appeal,” and the Board would review their list and advise of its position.

Second, Respondents argue that the Complaint does not contain any factual allegations which “suggest that Respondents used their official position, or the Board attorney, to suppress evidence demonstrating violations of school laws, [NJ-ABR], and the ‘Social Workers Code of Ethics.’” Per Respondents, the Complaint “fails to specify what these violations are, what this evidence consists of, or how, if at all, the Board attorney suppressed this evidence.” In addition, while Complainants allege that Respondents falsified the HIB report, “they fail to explain how if at all a falsified HIB report would secure an unwarranted privilege, advantage, or employment for themselves, their immediate family or anyone else.” Respondents also note that the HIB report in question “is the subject matter of a pending appeal” and, to the extent the Commission does not dismiss this matter, it *should* be held in abeyance.

Finally, and as to Complainants’ suggestion that Respondent Roccisano filed a “false and defamatory report to child services,” Respondents assert Complainants failed “to allege what if any unwarranted privileges, advantages or employment [Respondent Roccisano] stood to gain for herself, members of her immediate family or others,” and also did not provide any information “as to what these alleged false statements consisted of or how, if at all, the Board attorney would have been used by Respondent Roccisano to make these false statements.” Moreover, Board counsel’s representation of Respondent Roccisano “is not an *unwarranted* privilege as she is an employee of the District and would reasonably fall within the litigation control group.”

Response to the Motion to Dismiss

In response to the Motion to Dismiss, Complainants counter that they were “never allowed to come back to see any videos” because they received a “false and hostile email” from Board counsel telling them not to contact the Superintendent and “refusing cooperation in the HIB appeal.” Complainants further argue that they filed petitions with the Commissioner to overturn the District’s HIB decision and, had “the school not discriminated against Complainant[s]’ child in the matter and simply release[d] the videos to ensure [the child’s] safety, none of these litigations and harm to the child and family would’ve happened simply put.”

Complainants disagree with Respondents’ arguments and reaffirm that Respondents “have clear advantage of full legal protection of a [D]istrict and tax payer funded attorney for defense against any ... claims.” Complainant asserts that Respondents’ “falsified HIB report and suppression of the videos hides their own violations and culpability to their direct advantage and benefit unethically at harm to a child” Furthermore, Respondents’ gain of a “‘privilege’ of free legal support is priceless especially when two parents can[’]t afford that luxury for themselves or their child at great disadvantage to them.”

Complainants argue the matter should *not* be held in abeyance “while the HIB report matter is the subject of pending appeals,” because this matter can go unresolved for months or years, and it is a violation of their child’s civil rights not to adjudicate their claims. Per Complainants, it is the Board’s non-compliance with the Commissioner’s order that is preventing them from appealing the HIB determination.

Finally, Complainants note they have not provided the “false and defamatory statements” because family court matters are confidential. Complainants argue Respondent Roccisano’s “false and defamatory” statements to child services “could have resulted [in] traumatic and abrupt removal of [Complainants]’ child and loss of custody.” Complainants further argue Respondent Roccisano’s “false and defamatory” report “was to give other cause for her own violation [of] school laws and the Code of Ethics for Social Workers.” In addition, Respondent Roccisano made the “false claims knowing any action taken would be legally fought by the privilege and advantage of a tax payer funded attorney to defend her unethical actions.”

***C60-22 PC/CE
(Respondent Brown, Board member)***

The Complaint

In addition to the facts set forth above pertaining to the consolidated matter generally, Complainants assert that Respondent Brown’s child is one of the “alleged bullies” who was responsible for bullying Complainants’ child. According to Complainants, the Board and Respondent are “suppressing video taking advantage of [their] child’s disability and inability to report what happened ... to hide school official and staff violations in school law and suppress any disciplinary record [Respondent’s] child may receive under [the law] if Complainants are

able to prove HIB and other violations of the video they suppress.” Complainants further assert that Respondent “is using the privilege of the Board paid attorney to protect her child at cost to Complainants['] child.” Per Complainants, “It [is] beyond unethical it is unconscionable to allow Complainants['] child to be harmed further ... while [Respondent's] child has had privilege of safety, education, protection ... while Complainants['] child has suffered educationally and emotionally.”

Based on the foregoing, Complainants contend Respondent Brown violated *N.J.S.A. 18A:12-24(c)*, *N.J.S.A. 18A:12-24.1(a)*, and *N.J.S.A. 18A:12-24.1(b)* because she “is using privilege of tax payer and Board paid attorney to suppress evidence of HIB and her child’s involvement in a [HIB] matter at disregard to [Complainants’ child’s] educational welfare at educational harm to Complainants['] child for benefit of her own child and her child’s friends.” Furthermore, Respondent is “not complying with an order ... from the Commissioner ... involving school laws and regulations of the State Board of Education.” In the “Order” submitted by Complainants, “*the Board* is directed to issue a written decision affirming, rejecting, or modifying the superintendent’s HIB decision within seven days ...” and “*the Board* is ordered to provide a copy of the video to [Complainants] within ten days after receipt of” the December 20, 2021, decision.

Motion to Dismiss

In her Motion to Dismiss, and in response to the alleged violation of *N.J.S.A. 18A:12-24.1(a)*, although the Commissioner of Education instructed the Board to provide the video to Complainants, Respondent “disputes [Complainants’] contention that [they] were not provided this discovery,” and notes that Complainants were provided with the “links to downloadable video clips totaling approximately six hours of footage” Respondent maintains that, due to the “unduly burdensome and overly broad” nature of the discovery request for a full month of video, the Board “offered to arrange an inspection at a room within the school, with security present, so long as they [(Complainants)] agree not to record any of the video that they view.” Complainants were also “welcome to compile a list of any video clips and respective time stamps ... Relevant to their appeal,” and the Board would review their list and advise of its position. Furthermore, Respondent asserts that Complainants have not indicated how Respondent, “as an individual Board [m]ember, had the ability to supposedly refuse to comply with the Commissioner’s decision and to block or interfere with the release of the videos they desire.” As such, the Complaint does not state a viable claim for a violation of *N.J.S.A. 18A:12-24.1(a)*.

Regarding the purported violation of *N.J.S.A. 18A:12-24.1(b)*, Respondent Brown submits that Complainants “cannot point to any decisions taken by Respondent ... that was contrary to the educational welfare” of children. To the extent that Complainants claim Respondent made a “decision” when she failed to produce certain video evidence, Respondent argues that Complainants were provided with downloadable links to view. In addition, “the Complaint is wholly devoid of any factual allegations, which if proven true, would suggest that Respondent ... had authority or any influence over what if any video footage was produced or shown to Complainants in connection with their HIB appeal.” Therefore, the Complaint does not state a viable claim for a violation of *N.J.S.A. 18A:12-24.1(b)*.

Finally, and as for the alleged violation of *N.J.S.A.* 18A:12-24(c), Respondent Brown contends Complainants have failed to identify any “interest or financial involvement that could have compromised Respondent[’s] ... objectivity or independence of judgment,” nor did they identify “any action taken by Respondent ... that creates a benefit to her or her family.” Respondent further contends that Complainants have not provided any evidence that Respondent Brown “had authority or any influence over what if any video footage was produced or shown to Complainants in connection with their HIB appeal.” As such, the Complaint does not state a viable claim for a violation of *N.J.S.A.* 18A:12-24(c).

Response to the Motion to Dismiss

In response to the Motion to Dismiss, Complainants note that their child is “not a classified ‘special education child,’” but does have a “communication disability.” Complainants reaffirm their assertions, and regarding the violation of *N.J.S.A.* 18A:12-24.1(a), they maintain they “have not been provided the ordered video,” and have “only been provided very ‘selective’ video for download.” Complainants further maintain Respondent’s “gross exaggeration of the amount of video is beyond ridiculous,” as their request was “very precise and reasonable” and, at counsel’s request, Complainants “graciously redacted further.” Complainants contend there is no excuse for the failure to comply with the order.

Regarding the violation of *N.J.S.A.* 18A:12-24.1(b), Complainants argue that Respondent has “acted contrary to the educational welfare of their child in the HIB investigation and obstruction to Complainants[’] right to appeal their child[’s] HIB decision ... benefitting her own child and any adverse entry to her child’s educational records.” Further, Respondent’s “willful obstruction ... has resulted in educational and emotional harm to [their] child, depriving [their] child of [the] right to an education in a non hostile safe secure learning environment that [Respondent’s] child has had [the] benefit of.”

Finally, Complainants note that, in addition to a violation of *N.J.S.A.* 18A:12-24(c), they also allege a violation of *N.J.S.A.* 18A:12-24(b).⁵ As to these violations, Complainants argue that Respondent “certainly has privilege and benefit of the school attorney to ensure her child does not have a HIB on her school record by legally suppressing the videos ... in disregard to Complainants’ child’s educational welfare and [the child’s] right to an education in a non hostile safe secure learning environment” Complainants further argue Respondent’s “actions (use of taxpayer attorney for legal suppression) and non-action/non-compliance with Commissioner’s order “as a member of the Board has certainly been a benefit to her or her family while [C]omplainants[’] child’s educational and emotional welfare have suffered”

⁵ As part of their response to the Motion to Dismiss, Complainants asserted, for the very first time, that Respondent Brown also violated *N.J.S.A.* 18A:12-24(b). Because it was not pled in their Complaint, the alleged violation of *N.S.A.* 18A:12-24(b) will not be discussed or otherwise analyzed by the Commission.

C61-22 PC
(Respondent Siipola, Business Administrator)

The Complaint

In addition to the facts set forth above pertaining to the consolidated matter generally, Complainants aver that, due to the ethics complaints they filed against other school officials (C58-22, C59-22, and C60-22), Respondent Siipola, “made a false and very defamatory report to child services in retaliation of the ongoing litigation [u]sing her position and Board attorney to shield her from consequences of false reports.” According to Complainants, “[t]his false report ... resulted in ultimate irreparable harm” to them and their family. As such, Complainants assert Respondent Siipola violated *N.J.S.A. 18A:12-24(b)* because she is “using privilege of tax payer and Board paid attorney to ... make false statements to aid their suppression of video and violation of order from Commissioner without consequence causing continued educational and other harm” to Complainants and their family.

Motion to Dismiss

In her Motion to Dismiss, Respondent argues Complainants have not provided any factual allegations which, if true, suggest that Respondent “used her official position to secure an unwarranted privilege, advantage, or employment for herself, her immediate family or others.” According to Respondent, although Complainants claim that Respondent made a “false statement to child services ... in retaliation” for having filed other ethics complaints, “it secures no unwarranted privileges ... in the ongoing litigation.” Furthermore, Respondent maintains Complainants did not provide any “factual allegations from which a reasonable fact finder could infer that the simultaneous family court proceeding is predicated on Respondent[’s] ... false statement to child services and has a direct impact on the school ethics complaints or HIB appeal such that it would secure her an unwarranted privilege or advantage.” Moreover, Complainants have not even provided the statement that Respondent allegedly made to child services which was “false or defamatory.” According to Respondent, because the Complaint does not state a viable claim of *N.J.S.A. 18:12-24(b)*, it must be dismissed.

Response to the Motion to Dismiss

In response to the Motion to Dismiss, Complainants reiterate that by filing a false report, Respondent “used her ‘privilege’ or ‘benefit’ of her position ... knowing any lawsuit stemming from the defamatory report would be fought by tax payer funded attorneys at no cost to her.” Per Complainants, the “costs” from Respondent’s “humiliating and defamatory report” have had irreparable harm on their family, and could have resulted in losing custody of their child. Complainants also note that they have not provided the “false and defamatory statements” because family court matters are confidential, and they are “under protective order ... to not divulge the extremely false and defamatory statements” Complainants maintain Respondent made these “false statements” without having any knowledge about Complainants, without ever having met Complainants, and without having met Complainants’ child.

***Public Comments Offered at the Commission’s Special Meeting
on September 14, 2022***

At the Commission’s special meeting on September 14, 2022, members of the public appeared by telephone and offered public comment regarding the above-captioned matter. More detailed information regarding the substance of those public comments can be found in the [minutes](#) from the Commission’s special meeting on September 14, 2022.

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 (Complainants), 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 Complainants have pled sufficient facts which, if true, could support a finding that the named Respondents violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, *N.J.S.A. 18A:12-24.1(a)*, *N.J.S.A. 18A:12-24.1(b)*, *N.J.S.A. 18A:12-24.1(f)*, *N.J.S.A. 18A:12-24.1(i)*, or *N.J.S.A. 18A:12-24.1(j)*. The Commission notes that, despite the offering of public comment at its special meeting on September 14, 2022, the Commission’s review of this matter was limited solely to the parties’ written submissions.

B. *Jurisdiction of the Commission*

In reviewing the filings 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 Complainants seek a determination from the Commission that the comments or statements made by the named Respondents may have constituted defamation (slander or libel); that any of the named Respondents may have failed to strictly comply with a relevant Board policy and/or regulation; that Respondents may have “discriminated” against Complainants in violation of State and/or federal law; that any of the named Respondents may have filed a false report of child abuse with law enforcement or an administrative agency of this State; or that any of the named Respondents may have violated a code of ethics other than that which applies to school officials (e.g., the Social Worker Code of Ethics), the Commission advises that such determinations fall beyond the scope, authority, and jurisdiction of the Commission. Although Complainants may be able to pursue a cause of action in the appropriate tribunal, the Commission is not the appropriate entity to adjudicate those issues. Consequently, those claims are ***dismissed***.

C. *Alleged Violations of the Act*

Complainants submit that, based on the conduct more fully detailed above, Respondent Roccisano (C59-22), Respondent Cenatiempo (C59-22), and Respondent Siipola (C61-22) violated *N.J.S.A.* 18A:12-24(b), and Respondent Brown violated *N.J.S.A.* 18A:12-24(c) (C60-22). These provisions of the Act state:

b. No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others;

c. No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family;

In order to credit a violation of *N.J.S.A. 18A:12-24(b)*, the Commission must find evidence that Respondent Roccisano, Respondent Cenatiempo, and/or Respondent Siipola used or attempted to use their official positions to secure an unwarranted privilege, advantage or employment for themselves, members of their immediate family, or “others.” In addition, to credit a violation of *N.J.S.A. 18A:12-24(c)*, the Commission must find evidence that Respondent Brown acted in her official capacity in a matter where she, or a member of her immediate family, had a direct or indirect financial involvement that might reasonably be expected to impair her objectivity, or in a matter where she had a personal involvement that created some benefit to her, or to a member of her immediate family.

Complainants further submit that all of the named Respondents in C58-22 violated *N.J.S.A.* 18A:12-24.1(a) (in Count 1; and in Count 2 by Respondent Aikens), *N.J.S.A.* 18A:12-24.1(b) (in Counts 1-2; in Count 2 by Respondent Aikens; and in Count 2 by Respondent Carlson), *N.J.S.A.* 18A:12-24.1(f) (in Count 5, by Respondent Aikens only), *N.J.S.A.* 18A:12-24.1(i) (Count 4), and *N.J.S.A.* 18A:12-24.1(j) (in Count 3). In addition, Complainants contend that Respondent Brown violated *N.J.S.A.* 18A:12-24.1(a) and *N.J.S.A.* 18A:12-24.1(b) in C60-22. The provisions of the Code cited by Complainants 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.

b. I will make decisions in terms of the educational welfare of children and will seek to develop and maintain public schools that meet the individual needs of all children regardless of their ability, race, creed, sex, or social standing.

f. I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

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

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(b), *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) 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.

2. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(b) shall include evidence that Respondents willfully made a decision contrary to the educational welfare of children, or evidence that Respondents took deliberate action to obstruct the programs and policies designed to meet the individual needs of all children, regardless of their ability, race, color, creed or social standing.

6. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(f) shall include evidence that Respondent Aikens took action on behalf of, or at the request of, a special interest group or persons organized and voluntarily united in opinion and who adhere to a particular political party or cause; or evidence that Respondent Aikens used the schools in order to acquire some benefit for himself, a member of his immediate family or a friend.

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

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 Violations of N.J.S.A. 18A:12-24(b)
(Respondent Roccisano and Respondent Cenatiempo, C59-22)
(Respondent Siipola, C61-22)

Following its review of the Complaint, and assuming, as claimed, Respondent Roccisano, Respondent Cenatiempo, and/or Respondent Siipola are utilizing the Board's attorney to defend against the allegations levied by Complainants as to whether they may have failed to follow the ABR and/or filed "a very defamatory report" with a public agency, Complainants have not provided any evidence that any of the named Respondents used, or attempted to use, their official positions to secure an **unwarranted** privilege, advantage or employment for themselves, members of their immediate family, or "others." This is especially true when, pursuant to *N.J.S.A.* 18A:16-6 and *N.J.S.A.* 18A:12-20, school officials are required to be indemnified whenever a civil, administrative, criminal, or quasi-criminal action or other legal proceeding is instituted for "any act or omission arising out of and in the course of the performance of his duties." In short, school officials routinely use Board counsel when, as here, it is contended that a school official has acted in contravention of, or failed to act in accordance with, his or duties and responsibilities as a school official. Therefore, the Commission finds that the alleged violations of *N.J.S.A.* 18A:12-24(b) should be dismissed.

Alleged Violation of N.J.S.A. 18A:12-24(c)
(Respondent Brown, C60-22)

After review of the Complaint, and even if, as alleged, Respondent Brown is using the Board's attorney, Complainants have not offered any evidence to sufficiently explain when or how she acted in her official capacity in a matter where she had a personal involvement that created some benefit to her, or to her child. Instead of providing specific facts and circumstances, Complainants seemingly deduce that it must have been Respondent Brown who suppressed or ordered the suppression of the requested video/surveillance evidence because her child is involved in the HIB allegation related to Complainants' child. However, there is absolutely no facts explaining the circumstances under which this may have occurred, or when or how she acted in a matter. Accordingly, the Commission finds that the alleged violation of *N.J.S.A.* 18A:12-24(c) should be dismissed.

Alleged Violations of N.J.S.A. 18A:12-24.1(a)
(All Respondents, Count 1, C58-22)
(Respondent Aikens, Count 2, C58-22)
(Respondent Brown, C60-22)

After a comprehensive 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 any of the individually named Respondents (in C58-22 and/or C60-22) 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), Complainants have not provided **a copy of a final decision(s)** from any court of law or other administrative agency demonstrating or finding that any of the named Respondents violated a specific law(s), rule(s), or regulation(s) of the State

Board of Education and/or court orders pertaining to schools, or that they brought about changes through illegal or unethical procedures, when they engaged in any of the actions/conduct set forth in this consolidated matter, including Respondent Aikens failure to wear a mask at a public Board meeting and/or the failure of the individual Board members to comply with the Commissioner’s directive to produce the requested video/surveillance evidence. Although Complainants submitted a letter decision from the Commissioner which indisputably directed the Board to provide Complainants with the video/surveillance evidence they requested and believed was necessary to pursue their HIB appeal, Complainants did not provide a final decision(s) from any court of law or other administrative agency finding that *the individually named Respondents, not the Board*, failed to comply with the Commissioner’s directive to produce the video/surveillance evidence requested. In fact, as part of the Final Decision issued on March 4, 2022, in Agency Ref No. 94-5/20, and EDU 05225-20, the Commissioner specifically noted that she had previously directed the Board to provide the video and that, as of the date of her final decision, “there are no outstanding disputes remaining in this case.” In summary, without a final decision(s) “demonstrating or finding that” Respondents *defied* or otherwise failed to comply with the Commissioner’s directive, and based on the record in its current form, the Commission is constrained to dismiss the alleged violations of *N.J.S.A. 18A:12-24.1(a)*.

Alleged Violations of N.J.S.A. 18A:12-24.1(b)

(All Respondents, Count 1, C58-22)

(All Respondents, Count 2, C58-22)

(Respondent Aikens, Count 2, C58-22)

(Respondent Carlson, Count 2, C58-22)

(Respondent Brown, C60-22)

Based on its review of the Complaint, and assuming, as suggested, the video/surveillance evidence requested by Complainants has not been provided; assuming the Board has exhibited discrimination towards Complainants’ child, and defamed and attacked Complainants; assuming Respondent Aikens “mocked” Complainants at a Board meeting; assuming Respondent Carlson “mocked” Complainants at a public Board meeting and/or on social media; and assuming Respondent Brown used the Board’s attorney, Complainants have not provided any factual evidence explaining how or why, and/or the specific circumstances under which, Respondent Aikens, Respondent Carlson, Respondent Brown, Respondent Kanson, Respondent Geaney, Respondent Greaver, Respondent Zagula, Respondent Mitchell, and/or Respondent Vogler made a decision contrary to the educational welfare of children, or took deliberate action to obstruct the programs and policies designed to meet the individual needs of all children. Instead, Complainants offer conclusory accusations as fact; however, violations of the Act require the filing party to adduce sufficient factual evidence, none of which is present here. The suggestion that any of the named Respondents may have engaged in nefarious and unethical conduct by affirmatively directing someone to voluntarily withhold the release of the requested video/surveillance tape requires far more concrete and specific factual support and evidence than is proffered by Complainants in this matter. Consequently, the Commission finds that the alleged violations of *N.J.S.A. 18A:12-24.1(b)* should be dismissed.

Alleged Violation of N.J.S.A. 18A:12-24.1(f)
(Respondent Aikens, Count 5, C58-22)

Following its review of the Complaint, and even if, as asserted, Respondent Aikens is the “president of a partisan political and religious group with specific views,” without any factual evidence that Respondent Aikens took specific Board action on behalf of, or at the request of this “partisan political and religious group,” a violation of *N.J.S.A. 18A:12-24.1(f)* cannot be sustained. Mere membership in a partisan political and religious group is not, without more, evidence that a school official engaged in any action violative of the Act. As a result, the Commission finds that the alleged violation of *N.J.S.A. 18A:12-24.1(f)* should be dismissed.

Alleged Violations of N.J.S.A. 18A:12-24.1(i)
(All Respondents, Count 4, C58-22)

After its review of the Complaint, and assuming, as pled, the teachers in the District “were instructed by the Board and Board counsel to ‘literally and summarily ignore any emails from Complainants, refuse to answer parents about educational program and placement having isolated child from ‘class’ in a remedial reading and math group ... ,” the Commission cannot find that the Board, as a public body, violated the Code. Instead, Complainants needed to provide specific factual averments and evidence explaining how/when each named Respondent “took deliberate action which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties.” In its current form, the Complaint merely ascribes an action to the Board without explaining what specific action, if any, any of the individually named Respondents may have taken. Therefore, the Commission finds that the alleged violations of *N.J.S.A. 18A:12-24.1(i)* should be dismissed.

Alleged Violation of N.J.S.A. 18A:12-24.1(j)
(All Respondents, Count 3, C58-22)

Based on its review of the Complaint, and even if, as claimed, *the Board* did not strictly adhere to and/or abide by the process by which Complainants could pursue with the Board a “staff complaint” against Respondent Cenatiempo and/or Respondent Roccisano, there are no facts and/or evidence explaining how or when any of the individually named Respondents may have acted on, or attempted to resolve, Complainants’ complaint or engaged in an investigation or inquiry related to Complainants’ complaint in violation of the Code. The failure of the Board to follow its own policies and procedures, which could be actionable through a petition of appeal with the Commissioner, does not mean that the named Respondents, based on the facts and circumstances presented, acted in contravention of their duties and responsibilities. Accordingly, the Commission finds that the alleged violation of *N.J.S.A. 18A:12-24.1(j)* should be dismissed.

The central tenet in this consolidated matter is that the Board failed to produce the video/surveillance evidence that the Commissioner directed the Board to provide and, as a direct result thereof, certain of the named Respondents benefitted; benefitted in that their errors or omissions were not unearthed, or that certain information or people were protected from the non-production of the video/surveillance evidence. Although Complainants seemingly ask the Commission to determine whether the Board strictly complied with the Commissioner's

directive, the Commission is not the appropriate body to adjudicate that issue. Instead, the relief that Complainants seek must be sought elsewhere. Moreover, even if Complainants are successful in obtaining a finding or determination that the Board failed to strictly comply with the Commissioner's directive, such a finding or determination would not be enough for the Commission to find that any of the named Respondents engaged in conduct violative of the Act. Absent the proffer of at least a scintilla of identifiable action taken or directive given by the individuals named as Respondents to withhold the video/surveillance evidence, and evidence offered in support thereof, the Commission cannot hold individual school officials accountable for the actions of the body, or the actions of the Board's counsel (on its behalf).

IV. 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 **grant** the Motion to Dismiss in its entirety because Complainants failed to plead sufficient credible facts to support their alleged violations of the Act.

Pursuant to *N.J.S.A.* 18A:12-29(b), the Commission hereby notifies Complainants 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: October 17, 2022

***Resolution Adopting Decision
in Connection with C58-22, C59-22, C60-22, and C61-22 (Consolidated)***

Whereas, at a special meeting on September 14, 2022, the School Ethics Commission (Commission) considered the Complaint, the Motions to Dismiss in Lieu of Answer (Motions to Dismiss), and the responses to the Motions to Dismiss submitted in connection with the above-referenced consolidated matter; and

Whereas, at a special meeting on September 14, 2022, the Commission discussed granting the Motions to Dismiss in its entirety for failure to plead sufficient credible facts to support their asserted violations of the Act; and

Whereas, at a special meeting on October 17, 2022, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its special meeting on September 14, 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 October 17, 2022.

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