

Before the School Ethics Commission
Docket No.: C102-22
Decision on Motions to Dismiss

Pamela J. Richmond,
Complainant

v.

Marc Parisi,
Freehold Regional High School District Board of Education, Monmouth County,

-and-

Ira Thor,
Howell Township Board of Education, Monmouth County,
Respondents

I. Procedural History

The above-captioned matter arises from a Complaint that was filed on November 1, 2022, by Pamela J. Richmond (Complainant), alleging that Marc Parisi (Respondent Parisi), a member of the Freehold Regional High School District Board of Education (FRHSD Board), and Ira Thor (Respondent Thor) (collectively referred to as Respondents), a member of the Howell Township Board of Education (HT Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* By correspondence dated November 2, 2022, Complainant was notified that the Complaint was deficient, and required amendment before the School Ethics Commission (Commission) could accept her filing. On November 7, 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 Parisi and Respondent Thor violated *N.J.S.A.* 18A:12-24.1(e) and *N.J.S.A.* 18A:12-24.1(f) of the Code of Ethics for School Board Members (Code) in Count 1, and that Respondent Thor violated *N.J.S.A.* 18A:12-24.1(b) of the Code in Count 2.

On November 9, 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 November 29, 2022, and December 1, 2022, respectively, Respondent Parisi and Respondent Thor filed Motions to Dismiss in Lieu of Answer (Motions to Dismiss), and also alleged that the Complaint is

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.

frivolous. On December 30, 2022, Complainant filed a response to the Motions to Dismiss and allegations of frivolous filing.

The parties were notified by correspondence dated January 23, 2023, that the above-captioned matter would be discussed by the Commission at a special meeting on January 31, 2023, in order to make a determination regarding the Motions to Dismiss and allegations of frivolous filing. Following its discussion on January 31, 2023, the Commission adopted a decision at its meeting on February 21, 2023, granting the Motions to Dismiss in their entirety because Complainant failed to plead sufficient credible facts to support a finding that Respondent Parisi and Respondent Thor violated *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f) of the Code in Count 1, and/or Respondent Thor violated *N.J.S.A.* 18A:12-24.1(b) of the Code in Count 2. The Commission also adopted a decision finding the Complaint not frivolous, and denying Respondents' requests for sanctions.

II. Summary of the Pleadings

A. *The Complaint*

In Count 1, Complainant, the Deputy Mayor of Howell, states that Respondent Parisi and Respondent Thor are “two of the 5 founders” of a political activist group called “Howell NJ First.” According to Complainant, “Howell NJ First” was established in 2021, and its mission “is to promote change in local government.” When Complainant visited the “Howell NJ First” website on October 27, 2022, she noted “*they* have publically (sic) endorsed political candidates” (emphasis added) in violation of *N.J.S.A.* 18A:12-24.1(e) and *N.J.S.A.* 18A:12-24.1(f).

In Count 2, Complainant alleges that Respondent Thor has violated *N.J.S.A.* 18A:12-24.1(b) because he has “repeatedly bullied, insulted, disrespected and disparaged [Complainant] on multiple social media posts.” By way of example, on October 21, 2022, Respondent posted that Complainant was “a vile, disgusting despicable piece of human filth and also said if [she] was on fire on the side of the road he would not even pee on [her] to put out the flames.” Per Complainant, Respondent’s comments are “extremely disturbing, unethical and unbecoming of an elected ... board ... member,” and “can be rendered judgmental, ineffective [and] counterproductive to the goals and focus of” the Howell Township School District’s (HTSD) schools and the HT Board.

B. *Motions to Dismiss and Allegations of Frivolous Filing*

Respondent Parisi and Respondent Thor filed separate Motions to Dismiss and allegations of frivolous filings.

In his Motion to Dismiss and allegation of frivolous filing, **Respondent Parisi** argues that the “full extent” of Complainant’s factual assertions is that he “merely serves as a founding member of a small, local group that advocates for social reform in his community” – a role that is “entirely independent of his role as a [B]oard member.” Moreover, Respondent Parisi argues that the Complaint “fails to state any specific actions taken by” him that could possibly violate *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f). Instead, the within Complaint is part of

a “frivolous crusade to personally attack and undermine [Respondent] Parisi, both in his professional life and in connection with his position” on the FRHSD Board.

In more specific response to the alleged violation of *N.J.S.A.* 18A:12-24.1(e) in Count 1, Respondent Parisi argues that Complainant has failed to give any explanation as to why she believes that being a part of a political group violates *N.J.S.A.* 18A:12-24.1(e); the Complaint does not allege that he took any specific action; does not contain any specific statements from any of the founding members (including Respondent Parisi) endorsing a chosen candidate(s) for Howell Township Council; and Complainant fails to demonstrate how being a member of a political group rises to the level of making personal promises or taking action beyond the scope of one’s duties as a FRHSD Board member.

Regarding the purported violation of *N.J.S.A.* 18A:12-24.1(f) in Count 1, Respondent Parisi argues that the speech in question is wholly unrelated to the FRHSD Board; Complainant fails to allege any facts suggesting that he acted in his capacity as a FRHSD Board member to acquire a benefit for himself, a member of his immediate family, or a friend; Respondent Parisi neither compromised the FRHSD Board nor used the schools to acquire any kind of benefit; and it would “be entirely without reason to hold that the mere act of ‘being a member’ of a social reform group violates” one’s ethical duties as a FRSHD Board member.

Finally, Respondent Parisi argues that the Complaint is frivolous because it was commenced in bad faith, solely to harass Respondent Parisi, and because Complainant should have known that the Complaint was without any reasonable basis in law or equity. In this case, Complainant “clearly has a vendetta” against Respondent Parisi; has made several unsubstantiated and unfounded allegations against him (both to the FRHSD Board and his employer); and the filing of this ethics complaint is another example of her vendetta. Therefore, Respondent Parisi argues that the Complaint be dismissed in its entirety, and Complainant sanctioned for filing a frivolous Complaint.

In his Motion to Dismiss and allegation of frivolous filing, **Respondent Thor** admits that he is one of the founding members of “Howell NJ First,” a community-based organization consisting of “a group of civic minded individuals with different political affiliations working together to promote policy change” in the local government. Respondent Thor denies that there is any affiliation between Howell NJ First and the HT Board, and that all of his social media activity is unrelated to the HT Board, and is in his capacity as a private citizen.

As for the alleged violation of *N.J.S.A.* 18A:12-24.1(e) in Count 1, Respondent Thor contends that “Complainant does not provide any factual evidence that Respondent[’s] mere association with Howell NJ First” violates *N.J.S.A.* 18A:12-24.1(e); Respondent Thor is not specifically mentioned in the “endorsement” of certain candidates for Howell Township Council; and there is “no offer of proof that he in any way participated in that endorsement.” Furthermore, and as for the purported violation of *N.J.S.A.* 18A:12-24.1(f), “Complainant has not presented any sufficient credible evidence that Respondent’s involvement in Howell NJ First” could possibly violate this section of the Code.

Regarding the alleged violation of *N.J.S.A.* 18A:12-24.1(b) in Count 2, Respondent Thor argues that “Complainant has provided no factual evidence that the social media postings are anything other than derogatory statements about Complainant and have no nexus to Respondent’s actions as a member of the” HT Board. Despite being a HT Board member, Respondent Thor maintains he has a First Amendment right to publicly address a matter that is of importance to him.

Per Respondent Thor, “this Complaint is based on personal and political disagreements between Complainant and Respondent [Thor],” and even if some of his comments may be considered offensive, he has the right, pursuant to the First Amendment, to make such comments. Because the Complaint “was filed without any factual basis to support the allegations therein,” Respondent Thor argues that it should be deemed frivolous, and the matter dismissed.

C. *Response to Motions to Dismiss and Allegations of Frivolous Filing*

In response to the Motions to Dismiss and allegations of frivolous filing, Complainant “stands on the allegations set forth in the [C]omplaint” and states, “[t]he violations are clear and are underscored by the fact that ... [Respondents have] removed [themselves] from the postings on Howell NJ First website.” According to Complainant, because Respondents removed themselves from the website, it is “confirmation of knowing what [they] did was wrong.” Complainant further notes that her Complaint “has resulted in corrective actions” to Respondents’ behavior, and this confirms her Complaint is not frivolous.

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 Respondent Parisi and Respondent Thor violated *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f) of the Code in Count 1, and/or Respondent Thor violated *N.J.S.A.* 18A:12-24.1(b) of the Code in Count 2.

B. *Alleged Violations of the Act*

Complainant submits that, based on the conduct more fully detailed above, Respondent Parisi and Respondent Thor violated *N.J.S.A.* 18A:12-24.1(e) and *N.J.S.A.* 18A:12-24.1(f) of the Code in Count 1, and Respondent Thor violated *N.J.S.A.* 18A:12-24.1(b) in Count 2, and these provisions provide:

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.

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.

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.

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

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.

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 his duties such that, by its nature, had the potential to compromise the board.

6. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(f) shall include evidence that Respondents 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 Respondents used the schools in order to acquire some benefit for himself, a member of his immediate family or a friend.

Following its review, the Commission finds that even if the facts as pled in Count 1 of the Complaint are proven true by sufficient credible evidence, they would not support a finding that Respondent Parisi and/or Respondent Thor violated *N.J.S.A.* 18A:12-24.1(e), and/or *N.J.S.A.* 18A:12-24.1(f) as contended. Although it is beyond dispute, and in fact conceded, that Respondent Parisi and Respondent Thor are two of the “Founding Members” of “Howell NJ First,” and equally true that their membership on the Board is noted, albeit biographically, on the website for “Howell NJ First,” there is absolutely no evidence that either Respondent Parisi and/or Respondent Thor personally or individually endorsed certain candidates running for Howell Council. Instead, the evidence submitted by Complainant uncontrovertibly affirms that “Howell NJ First” endorsed certain candidates. Because it clear that the political endorsement at issue emanated from “Howell NJ First,” and not from Respondent Parisi and/or Respondent Thor, the Commission finds that a reasonable member of the public could not possibly perceive this endorsement as one from either Respondent Parisi and/or Respondent Thor in their official

capacity as Board members (or on behalf of the Board). Therefore, the endorsement from “Howell NJ First” cannot possibly constitute a “personal promise” or “action” beyond the scope of their duties such that, by its nature, had the potential to compromise any board of education or school district (*N.J.S.A.* 18A:12-24.1(e)), and/or “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 use of the schools in order “to acquire some benefit for himself, a member of his immediate family or a friend” (*N.J.S.A.* 18A:12-24.1(f)).

The Commission additionally finds that even if the facts as averred in Count 2 of the Complaint are proven true by sufficient credible evidence, they would not support a finding that Respondent Thor violated *N.J.S.A.* 18A:12-24.1(b) as asserted. Even if Respondent Thor’s comments on social media about Complainant were patently offensive, insolent, and unabashedly crude, and contrary to proper civility and decorum, there is no evidence from which a reasonable member of the public could perceive his comments as being in his official capacity or on behalf of the Board. As such, his comments on social media cannot possibly constitute a “decision” that was contrary to the educational welfare of children, or “deliberate action” related to any school district’s programs or policies in violation of *N.J.S.A.* 18A:12-24.1(b).

With respect to the substance of Respondent Thor’s comments on social media, and as noted by the Commission in other decisions:

As the Commission has stated time and time again, disagreement with how a school official conducts him/herself outside the scope of his/her duties as a school official is best addressed at the time of election. It is the public, not the Commission, who ultimately decides which individual in their community is best suited to serve their students.

[*Aziz v. Nikitinsky, et al.*](#), Monroe Township Board of Education, Middlesex County, Docket No. C56-22, at page 9.

IV. Request for Sanctions

At its special meeting on January 31, 2023, the Commission considered Respondents’ request that the Commission find the Complaint frivolous, and impose sanctions pursuant to *N.J.S.A.* 18A:12-29(e). Despite Respondents’ argument, the Commission cannot find evidence that might show that Complainant filed the Complaint in bad faith or solely for the purpose of harassment, delay, or malicious injury. The Commission also does not have information to suggest that Complainant knew or should have known that the Complaint was without any reasonable basis in law or equity, or that it could not be supported by a good faith argument for an extension, modification or reversal of existing law. *N.J.A.C.* 6A:28-1.2. Therefore, at its special meeting on January 31, 2023, the Commission discussed finding the Complaint not frivolous, and denying the request for sanctions.

V. 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 Motions to Dismiss in their entirety because Complainant failed to plead sufficient credible facts to support a finding that Respondent Parisi and Respondent Thor violated *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f) of the Code in Count 1, and/or Respondent Thor violated *N.J.S.A.* 18A:12-24.1(b) of the Code in Count 2. The Commission also voted to find that the Complaint is not frivolous, and to deny Respondents' requests for sanctions.

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: February 21, 2023

***Resolution Adopting Decision
in Connection with C102-22***

Whereas, at a special meeting on January 31, 2023, the School Ethics Commission (Commission) considered the Complaint, the Motions to Dismiss in Lieu of Answer (Motions to Dismiss) and allegations of frivolous filing, and the response to the Motions to Dismiss and allegations of frivolous filings submitted in connection with the above-referenced matter; and

Whereas, at a special meeting on January 31, 2023, the Commission discussed granting the Motions to Dismiss in their entirety for failure to plead sufficient credible facts to support the allegations that Respondent Parisi and Respondent Thor violated *N.J.S.A.* 18A:12-24.1(e) and/or *N.J.S.A.* 18A:12-24.1(f) of the Code in Count 1, and/or Respondent Thor violated *N.J.S.A.* 18A:12-24.1(b) of the Code in Count 2; and

Whereas, at a special meeting on January 31, 2023, the Commission discussed finding the Complaint not frivolous, and denying the requests for sanctions; and

Whereas, at its meeting on February 21, 2023, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its special meeting on January 31, 2023; 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 its public meeting on February 21, 2023.

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