

***Before the School Ethics Commission
OAL Docket No.: EEC-03401-21
SEC Docket No.: C39-20
Final Decision***

**Eliza Schleifstein and Layne Varga Broyles,
*Complainants***

v.

**Jeanne Morton Stifelman,
Randolph Township Board of Education, Morris County,
*Respondent***

I. Procedural History

This matter arises from a Complaint that was filed on July 23, 2020, by Eliza Schleifstein (Complainant Schleifstein) and Layne Varga Broyles (Complainant Broyles) (collectively referred to as Complainants), alleging that Jeanne Morton Stifelman (Respondent), a member of the Randolph Township Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.* More specifically, the Complaint alleges that Respondent violated *N.J.S.A. 18A:12-24(b)* in Counts 1-3, as well as *N.J.S.A. 18A:12-24.1(e)* (Counts 1-3), *N.J.S.A. 18A:12-24.1(f)* (Counts 1-3) and *N.J.S.A. 18A:12-24.1(g)* (Count 1 and Count 3) of the Code of Ethics for School Board Members (Code).

At its meeting on November 24, 2020, and after reviewing Respondent’s Motion to Dismiss in Lieu of Answer (Motion to Dismiss) and allegation of frivolous filing, and Complainants’ response thereto, the School Ethics Commission (Commission) adopted a decision granting the Motion to Dismiss as to the allegations in Count 1 and Count 2 and denying the Motion to Dismiss as to the allegations in Count 3. The Commission also voted to find the Complaint not frivolous, and to deny Respondent’s request for sanctions. Based on its decision, the Commission also voted to direct Respondent to file an Answer to Complaint (Answer) as to the remaining allegations in the Complaint (*N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(f)*, and *N.J.S.A. 18A:12-24.1(g)* in Count 3), which she did on December 14, 2020.¹

At its meeting on February 23, 2021, the Commission did not find probable cause for the alleged violation of *N.J.S.A. 18A:12-24(b)* in Count 3. Having found that probable cause does not exist for any subsection of *N.J.S.A. 18A:12-24* (“Prohibited acts”), the Commission voted to transmit the remaining Code allegations in Count 3 to the Office of Administrative Law (OAL)

¹ Complainants filed a brief reply to Respondent’s Answer, which was not considered by the Commission as it is not permitted by the Commission’s regulations.

for a plenary hearing regarding the remaining allegations of *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), and *N.J.S.A.* 18A:12-24.1(g) in Count 3.

Following a hearing at the OAL, the Administrative Law Judge (ALJ) issued an Initial Decision on August 11, 2023. Thereafter, Complainants filed exceptions to the Initial Decision, in accordance with *N.J.A.C.* 1:1-18, and Respondent filed a reply thereto.

At its meeting on September 26, 2023, the Commission discussed the above-captioned matter, and at its meeting on October 17, 2023, the Commission voted to adopt the Initial Decision's findings of fact, the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), and/or *N.J.S.A.* 18A:12-24.1(g), and the dismissal of the above-captioned matter.

II. Initial Decision

This matter arises from two Open Public Records Act (OPRA) requests made by Respondent's husband, David Stifelman, on May 19 and 21, 2020, seeking documents provided to the Board. *Initial Decision* at 4. The first request (May 19) was for emails that Complainant Schleifstein's husband sent from his work email to the Randolph Township School District (District)/Board. *Ibid.* After being denied as "overbroad," Mr. Stifelman submitted a second request (May 21), identifying a series of specific emails exchanged between Complainant Schleifstein's husband and the Board attorney. *Id.* at 4-5.

Complainant Schleifstein asserted that the emails in question contained "private information about her family," and the only way Mr. Stifelman could have known "what subject areas to include with his OPRA request" was by obtaining the confidential information in some way from Respondent (his spouse). *Id.* at 5. Respondent argued she did not share confidential information with her husband, rather her husband made the OPRA requests based on a packet that Complainant Schleifstein delivered to Respondent's home on January 25, 2020. *Ibid.* Respondent explained that her spouse routinely opens the household mail, and opened the package from Complainant Schleifstein, which did not contain "any indicia of her membership on the Board." *Id.* at 6.

Around the same time, Complainant Schleifstein discovered "the existence of a private settlement between [R]espondent's family and the [District] through the District's inadvertent publication of the settlement payment on a check registry." *Ibid.* Complainant Schleifstein shared this discovery with the Board "and others" via email. *Ibid.* Respondent contacted Complainant Schleifstein via email and requested that she respect her child's privacy. *Ibid.*

Nevertheless, news of the settlement became public on social media, which prompted Respondent's spouse to file an OPRA request of the Board for records related to the materials provided in Complainant Schleifstein's packet, including but not limited to, emails between Complainant Schleifstein's husband and the Board. *Ibid.* Consequently, Complainants filed the within Complaint alleging that Respondent's spouse's OPRA requests indicated that Respondent "must have shared confidential Board information with him." *Ibid.* Complainant Schleifstein maintains that the "alleged disclosure of the confidential information and emails by [R]espondent

to her husband was purely retaliatory because of the public disclosure” of Respondent’s child’s settlement with the District in 2018. *Id.* at 6-7.

Based on the testimony and evidence, the ALJ finds Complainant Schleifstein hand delivered the packet to Respondent’s home, addressed to “Jeanne Stifelman, From Eliza.” *Id.* at 12. The ALJ further finds Complainant addressed the packet to Respondent personally, rather than as a member of the Board, because she did not want the contents of the packet sent through the District’s server, which confirms it was not related to Board business. *Ibid.*

The ALJ also finds Respondent did not disclose any emails and/or Board information to her husband, which are alleged to be the basis of his OPRA requests, and that Mr. Stifelman opened the packet on his own. *Ibid.* The ALJ notes the packet contained at least one email from Mr. Schleifstein to the Board attorney that became the catalyst for his OPRA requests. *Ibid.*

The ALJ concludes because Complainants did not demonstrate that Respondent shared any confidential information with her husband, she did not act beyond the scope of her duties as a Board member or compromise the Board, and therefore, did not violate *N.J.S.A.* 18A:12-24.1(e). Additionally, the ALJ concludes Respondent also did not violate *N.J.S.A.* 18A:12-24.1(f), as she did not use her official position as a Board member to disclose the existence or contents of the emails to her husband to gain a benefit for herself or a friend, including her husband. Finally, the ALJ concludes that Complainants did not show that Respondent disclosed the contents of the emails to her husband nor that she made public, revealed or disclosed information that was not public, in violation of *N.J.S.A.* 18A:12-24.1(g). As such, the ALJ dismissed the Complaint against Respondent.

III. Exceptions

Complainants’ Exceptions

In their exceptions, Complainants maintain that the subject matter of Mr. Stifelman’s OPRA request was very specific and would only be known if Respondent shared confidential information. Complainants argue that the ALJ incorrectly concluded that Mr. Stifelman learned of Mr. Schleifstein’s emails from the package. However, at trial, Mr. Stifelman could not point out said documents from the package. Additionally, Complainants contend the ALJ incorrectly concluded that the package included “at least one email” from Mr. Schleifstein’s work email address to the Board attorney. However, upon review, the package contained a single email from Mr. Schleifstein’s work address sent to an individual in the District, but Board counsel was not a recipient.

Complainants assert the ALJ incorrectly determined Respondent did not violate the Code because the contents of the package were not Board business. Complainants argued; however, that the cover letter in the package noted the package was only sent to three Board members and Board counsel. Complainants claim Respondent admitted on cross-examination that the delivery of the package to certain Board members and the subsequent emailing of the package to the full Board by Board counsel, appeared in the next month’s Board minutes, and therefore, made it a Board matter.

Complainants contend the ALJ ignored the prior decision, *Anthony Fleres v. Yu Taylor Zhong, West Windsor-Plainsboro Board of Education*, Commission’s Docket No. C17-18 (May 3, 2019), on board members’ obligation to keep board business confidential, including from their spouses. Complainants assert Respondent did not make any effort to prevent her husband from reviewing the confidential Board matter, which was addressed to Respondent and marked “CONFIDENTIAL.” According to Complainants, even if Respondent was uncertain whether the package was personal or Board business, she should have “insisted” that her husband “cease reading” and hand the package over. Complainants argue the ALJ misdirects her attention about the package being delivered to Respondent’s home in a handwritten envelope, rather than through a District server or Board email. Complainants note it is an error to deem the package personal and not a Board matter simply because it was not delivered through a Board email or District server.

Finally, the ALJ “overlooked” a recent Commission decision, *Maria Ricupero and Gerlando Termini v. Jeanne Stifelman, Randolph Township Board of Education*, Commission’s Docket No. C25-21 (January 31, 2023), in which Respondent was reprimanded for violating *N.J.S.A.* 18A:12-24.1(e) because she shared Board business with non-Board members. Complainants note this similarity is “highly relevant” to the within matter.

With the above in mind, Complainants urge the Commission to disregard the ALJ’s decision and find that Respondent violated the Act.

Respondent’s Reply to Complainants’ Exceptions

In reply to Complainants’ exceptions, Respondent argues that Complainants “ignore[] their own undisputed testimony,” namely that Complainant Schleifstein stated that she wrote the letter to three Randolph residents who happen to be members of the Board; she hand-delivered the packet to their home addresses and addressed Respondent’s to “Jeanne Stifelman”; she delivered the packet to Respondent’s home because she didn’t “want it on the RTNJ server,” which is the Board and District’s official server; and she admitted the packet “did not identify Respondent in her official capacity as a Board member on the envelope, nor did she address Respondent as a Board member in the letter enclosed in the envelope.” Therefore, Respondent maintains the ALJ correctly concluded that Complainants failed to demonstrate that the packet was delivered to Respondent in her official role as a Board member.

Respondent asserts Complainants’ exception regarding the OPRA request contains “unsupported theories” and were all properly rejected by the ALJ. Respondent testified she “absolutely [did] not” tell her husband “about or share with him any of the emails which prompted his OPRA requests.” Moreover, Respondent’s husband testified he opened the packet because he opens all the mail, and Complainant Schleifstein testified that the packet she delivered had “at least one email from her husband’s” work email address. As such, the testimony did not establish that Respondent revealed confidential information to her husband.

As to Complainants’ third exception, Respondent argues Complainants attempt to “invalidate” the Initial Decision because the ALJ did not discuss *Fleres*, but the facts discussed in *Fleres* do not resemble the facts in this case.

Finally, Respondent contends that Complainants' attempt to rehash Respondent's "pattern and practice of discussing [Board] business with her husband in the past," is a "gross mischaracterization of the testimony before the ALJ." Respondent further contends none of the testimony demonstrates a "history of sharing" confidential Board information.

With the above in mind, Respondent maintains the ALJ's Initial Decision should be adopted.

IV. Analysis

Upon a thorough, careful, and independent review of the record, the Commission agrees with the ALJ that Respondent did not violate *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(f)*, and/or *N.J.S.A. 18A:12-24.1(g)*, and as such the Complaint should be dismissed.

Pursuant to *N.J.S.A. 18A:12-24.1(e)*, a board member must recognize that authority rests with the board and a board member shall not make any personal promises or take any action that may compromise the board. The record does not indicate that Respondent made any personal promises. As for taking action that may compromise the Board, the Commission agrees with the ALJ that Complainants failed to demonstrate that Respondent revealed confidential information to her husband. Respondent testified that she did not disclose any Board information to her husband, and he testified that he opened the hand-delivered package on his own and filed the OPRA requests. Beyond speculation, Complainants cannot demonstrate that Respondent took action to compromise the Board, and as such, the Commission finds Respondent is not in violation of *N.J.S.A. 18A:12-24.1(e)*.

N.J.S.A. 18A:12-24.1(f) prohibits Board members from surrendering their judgment to special interest or partisan political groups or using the schools for personal gain or for the gain of friends. The Commission finds that Respondent did not take any action or use the schools to acquire a benefit for herself or her immediate family. As Complainants have failed to demonstrate that Respondent provided information to her husband in order to obtain a benefit, a violation of *N.J.S.A. 18A:12-24.1(f)* has not been established.

As set forth in *N.J.S.A. 18A:12-24.1(g)*, Board members must "hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools." Again, Complainants have not demonstrated that Respondent disclosed any confidential matters, and as such, she is not in violation of *N.J.S.A. 18A:12-24.1(g)*.

The Commission is not persuaded by Complainants' exceptions. First, while Complainants speculate that the only way Respondent's husband would have been able to request specific information in the OPRA request was if Respondent shared it, Complainants have not met their burden of proving such a theory. And whether a certain email from Complainant Schleifstein's husband was in the packet as the ALJ noted, is of no moment, as Complainants have not met their burden of proving that Respondent disclosed information to her husband. Second, while the Commission agrees with the ALJ that the nature of the handwritten packet being placed in the mailboxes of three Board members in order to intentionally avoid the

District's email server, without any markings to indicate that it is a Board matter, gives the impression that it was a private matter, such a determination is not relevant to this matter. Whether the contents of the packet constituted Board business or a private matter, Complainants have not demonstrated that Respondent shared the packet with her husband. Respondent testified that she did not share any confidential information with her husband, and Respondent's husband testified that he opened the envelope on his own while he was reading the mail. Third, the *Fleres* matter does not alter the analysis in this matter, as the Respondent in *Fleres* forwarded a confidential message to four family members, while here, it has been established that Respondent did not reveal confidential information. Finally, whether Respondent has been the subject of previous ethics complaints does not demonstrate that she revealed confidential information in the above-referenced matter.

Accordingly, the Complaint against Respondent is dismissed.

V. Decision

Upon review, the Commission adopts the Initial Decision, concluding that Respondent did not violate *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), and/or *N.J.S.A.* 18A:12-24.1(g), and dismissing the above-captioned matter.

Therefore, this is a final agency decision and is appealable only to the Superior Court-Appellate Division. *See, N.J.A.C.* 6A:28-10.11 and *New Jersey Court Rule* 2:2-3(a).

Robert W. Bender, Chairperson

Mailing Date: October 17, 2023

**Resolution Adopting Decision
in Connection with C39-20**

Whereas, at its meeting on February 23, 2021, the School Ethics Commission (Commission) voted to transmit the above-captioned matter to the Office of Administrative Law (OAL) for a hearing; and

Whereas, the Administrative Law Judge (ALJ) issued an Initial Decision dated August 11, 2023; and

Whereas, in the Initial Decision, the ALJ found that Respondent did not violate *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), and/or *N.J.S.A.* 18A:12-24.1(g), and ordered the dismissal of the above-captioned matter; and

Whereas, Complainants filed exceptions to the Initial Decision and Respondent filed a reply thereto; and

Whereas, at its meeting on September 26, 2023, the Commission reviewed and discussed the record, including the ALJ's Initial Decision; and

Whereas, at its meeting on September 26, 2023, the Commission discussed adopting the Initial Decision's findings of fact, the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), and/or *N.J.S.A.* 18A:12-24.1(g), and dismissing the above-captioned matter; and

Whereas, at its meeting on October 17, 2023, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on September 26, 2023; and

Now Therefore Be It Resolved, the Commission hereby adopts the within decision.

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its meeting on October 17, 2023.

Brigid C. Martens, Acting Director
School Ethics Commission