

***Before the School Ethics Commission
OAL Docket No.: EEC-05563-22
SEC Docket No.: C48-22
Final Decision***

**Christine Dye,
Complainant**

v.

**Dawn Daura and Michele Mega,
Cedar Grove Board of Education, Bergen County,
Respondents**

I. Procedural History

The above-captioned matter arises from a Complaint that was filed on April 19, 2022, by Christine Dye (Complainant), alleging that Dawn Daura (Respondent Daura) and Michele Mega (Respondent Mega) (collectively, Respondents), members of the Cedar Grove Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* The Complaint avers that Respondents violated *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), *N.J.S.A.* 18A:12-24.1(g) and *N.J.S.A.* 18A:12-24.1(i) of the Code of Ethics for School Board Members (Code) by creating an ad hoc committee for the purpose of selecting new legal representation.

After reviewing the Complaint and Respondent's Answer to Complaint (Answer) at its meeting on June 28, 2022, the School Ethics Commission (Commission) voted to transmit the above-captioned matter to the Office of Administrative Law (OAL), in accordance with *N.J.A.C.* 6A:28-10.8(a),¹ for a plenary hearing on the alleged violations of the Code.

At the OAL, Respondents filed a motion for Summary Decision, which the Administrative Law Judge (ALJ) denied without prejudice by a letter order dated March 31, 2023. Respondents filed for reconsideration of the denial of Summary Decision, and the ALJ issued an Initial Decision on July 28, 2023. The parties did not file exceptions to the Initial Decision.

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(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), *N.J.S.A.* 18A:12-24.1(g), and/or *N.J.S.A.* 18A:12-24.1(i), and the dismissal of the above-captioned matter.

¹ This citation refers to the regulations in effect at the time the Complaint was filed.

II. Initial Decision

After the 2021 election, members of the Board expressed interest in seeking new legal representation for the upcoming term. *Initial Decision* at 3. At the Board's reorganization meeting on January 4, 2022, Respondent Daura was elected as Board President and Respondent Mega was elected Board Vice President. *Ibid.* The discussion related to choosing a new Board attorney was postponed until the February meeting and the former counsel's contract was extended for the interim period. *Ibid.*

Consequently, Respondent Daura, in her role as Board President, formed an ad hoc committee to interview prospective law firms. *Ibid.* Board policy does not require the Board President to discuss the formation of committees with the Board or administration. *Ibid.* On or about January 5, 2022, the Board put out a Request for Proposal (RFP) for school district legal services. *Ibid.* The Business Administrator and the Superintendent were involved in creating the RFP, formulating interview questions and were present and involved during the interviews. *Ibid.*

While six law firms responded to the RFP, the committee, Superintendent, and Business Administrator interviewed two firms, including the Weiner Law Group, LLP. *Id.* at 3-4. Thereafter, at the Board meeting on February 16, 2022, the full Board had the opportunity to interview the firm, deliberate and cast a vote. *Id.* at 4. Consequently, the Board appointed Weiner Law Group as new legal counsel. *Ibid.*

As a preliminary matter, the ALJ notes she initially denied without prejudice Respondents' motion for summary decision because she "did not have information on how or when a committee was formed and authorized to conduct interviews for this professional services contract on which there was no competitive bid process; whether anyone other than Mr. Edelstein was interviewed or even considered; whether school administrative officials should have been consulted, especially in light of the past history here; whether this contract needed additional administrative action after the agenda vote before Mr. Edelstein would be considered retained and having the right to sit in an executive session"; however, after receiving clarity on those questions, the ALJ has reconsidered her decision. *Id.* at 6.

After obtaining the necessary information, as well as a review of the Board policy, the ALJ asserts Complainant has not provided "facts nor law and policy that would have divested [R]espondent Daura" of the authority to create and appoint members to an ad hoc committee. *Id.* at 7. The ALJ further asserts Complainant has not provided any evidence to support her allegation that Respondents "saw 'personal gain' or breached confidentiality or took action that was for special interests or abdicated proper policy matters." *Ibid.* Instead, the ALJ notes Complainant maintains Respondents "*should have cared* about the background of a prior professional services contract² with the Weiner Law Group." *Ibid.* However, the ALJ contends "[t]his is more in the nature of a 'political question' or political complaint that the Board majority disagreed with [C]omplainant's concerns." *Ibid.* The ALJ maintains "elections have consequences, and this complaint appears to stem from the fact that [Complainant] went from being in the majority to being in the minority." *Ibid.*

² It appears that the Weiner Law Group had at some point previously been the Board's legal counsel.

As such, the ALJ concludes that the alleged Code violations were not sustained and dismisses the Complaint against Respondents with prejudice.

III. Analysis

Upon a thorough, careful, and independent review of the record, the Commission agrees with the ALJ that Respondents did not violate *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), *N.J.S.A.* 18A:12-24.1(g), and/or *N.J.S.A.* 18A:12-24.1(i) when an ad hoc committee was formed to create a new professional legal services contract.

Pursuant to *N.J.S.A.* 18A:12-24.1(c), board members must confine board action to “policy making, planning, and appraisal” and “frame policies and plans only after the board has consulted those who will be affected by them.” The Commission finds that Respondents did not take action unrelated to their duties. Instead, their actions were within their duties as Board members because Board policy expressly gives the Board President authority to create and appoint members to ad hoc committees. As such, Respondent Daura was within her authority as Board President to create a committee to select legal services for the District and Respondents were not in violation of *N.J.S.A.* 18A:12-24.1(c).

Under *N.J.S.A.* 18A:12-24.1(d), board members must carry out their responsibility not to administer the schools, but see that they are well run. The Commission concurs with the ALJ that Complainant did not provide any evidence to demonstrate that Respondents gave a direct order to school personnel or became directly involved in activities or functions that are the responsibility of school personnel. On the contrary, Respondents acted within their roles as Board President and Vice President to form and participate in a committee to select new legal counsel, and the full Board was given the opportunity to interview the firms and to vote. Therefore, Respondents did not violate *N.J.S.A.* 18A:12-24.1(d).

According 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 Commission agrees that Respondents did not act beyond the scope of their duties as Board members. Additionally, Respondents’ actions did not have the potential to compromise the Board as they acted pursuant to their authority as set forth in Board policy, and the Board as a whole, voted on the proposed law firm. Accordingly, a violation of *N.J.S.A.* 18A:12-24.1(e) has not been established.

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 Complainant did not meet the burden of demonstrating that Respondents received any personal gain from the selection of the Weiner Law Group as Board counsel, or that they were operating on behalf of a special interest group. As such, Respondents are not in violation of *N.J.S.A.* 18A:12-24.1(f).

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” and provide accurate information and interpret to the staff the aspirations of the community for its school. The Commission finds Complainant has not provided any evidence that Respondents disclosed any confidential information or provided any inaccurate information. As such, Respondents have not violated *N.J.S.A.* 18A:12-24.1(g).

Finally, according to *N.J.S.A.* 18A:12-24.1(i), Board members must support and protect school personnel in the proper performance of their duties. The Commission maintains that Respondents included the Superintendent and Business Administrator in creating the RFP, formulating the interview questions, and conducting interviews. As such, Respondents did not prevent school personnel from performing their duties and are, therefore, not in violation of *N.J.S.A.* 18A:12-24.1(i).

Accordingly, the Commission agrees with the ALJ that this matter should be dismissed.

IV. Decision

Upon review, the Commission adopts the Initial Decision, concluding that Respondent did not violate *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), *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 C48-22***

Whereas, at its meeting on June 28, 2022, 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 July 28, 2023; and

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

Whereas, the parties did not file exceptions to the Initial Decision; 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(c), *N.J.S.A.* 18A:12-24.1(d), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), *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