

Before the School Ethics Commission
OAL Docket No.: EEC-05186-19
SEC Docket No.: C69-18
Final Decision

Monique Andrews,
Complainant

v.

Vidya Gangadin,
Jersey City Board of Education, Hudson County,
Respondent

I. Procedural History

The above-captioned matter arises from a Complaint that was filed on October 30, 2018, by Monique Andrews (Complainant), alleging that Vidya Gangadin (Respondent), a former member of the Jersey City Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.*¹ The five-count Complaint alleges that Respondent violated several subsections of *N.J.S.A.* 18:12-24 (Prohibited Acts) and *N.J.S.A.* 18A:12-24.1 (the Code of Ethics for School Board Members (Code)).

On January 4, 2019, Respondent filed an Answer to the Complaint, including the allegation that the Complaint is frivolous. On January 29, 2019, Complainant filed a response to the allegation of frivolous filing.

At its meeting on March 26, 2019, the Commission voted to find the allegations in Count 1, Count 2, Count 3 and Count 5 were untimely; to find no probable cause for the alleged violations of *N.J.S.A.* 18A:12-24(a), *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(d), and *N.J.S.A.* 18A:12-24(g) in Count 4; to transmit the remaining allegations in Count 4 to the Office of Administrative Law (OAL) for a plenary hearing where Complainant shall carry the burden to prove that Respondent violated *N.J.S.A.* 18A:12-24.1(a), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f), and/or *N.J.S.A.* 18A:12-24.1(g); and to find the Complaint not frivolous.

At the OAL, Respondent filed a Motion for Summary Decision, which the Administrative Law Judge (ALJ) denied. Following a plenary hearing on the merits, the ALJ issued an Initial Decision on April 12, 2023.

¹ On October 30, 2018, Complainant filed a deficient Complaint; however, on December 11, 2018, Complainant cured all defects and filed an Amended Complaint that was deemed compliant with the requirements detailed in *N.J.A.C.* 6A:28-6.3.

At its meeting on May 23, 2023, the Commission discussed the above-captioned matter, and at its meeting on June 27, 2023, the Commission voted to adopt the Initial Decision’s findings of fact, the legal conclusion that Respondent did not violate the Act, and the dismissal of the above-captioned matter.

II. Initial Decision

The Complaint stems from a Board meeting held on June 29, 2018. *Initial Decision* at 7. The meeting was called on short notice and was held at 3:00 p.m., rather than in the evening. *Ibid.* At the meeting, eighteen employees were considered for nonrenewal. *Id.* Respondent and two other Board members spoke in public before the vote about their concerns that they were not given the time or information necessary to evaluate the recommendations about the eighteen personnel actions. *Ibid.* Following the meeting, Respondent and three other Board members wrote a letter to the Commissioner of Education. *Id.* at 8. While Respondent used her Board email address, she specified that she was writing as a private citizen and not in her capacity as a Board member. *Ibid.* Thereafter, at least eight employees who were nonrenewed filed Notices of Tort Claim, which inform the District of their intent to sue. *Ibid.*

Complainant alleged that Respondent violated the Act by seeking that the Commissioner of Education intervene in a Board personnel matter, assisting former District employees with bringing a lawsuit against the Board, and communicating with a majority of the Board outside of regular public meetings in violation of the Open Public Meetings Act. *Id.* at 2. Complainant asserted that Respondent “engaged in conspiracy, released confidential information, or took action detrimental to her sworn duty as a member of the [Board].” *Id.* at 3.

The ALJ found Respondent did not act inappropriately at the June 29, 2018, meeting “by questioning in public the actions the board was being asked to take at the last minute, and by expressing her concerns about the impact on the lives of the impacted employees.” *Id.* at 8. The ALJ found that Respondent’s statements were not the cause of any potential lawsuits that may be filed by the nonrenewed employees. *Ibid.* With respect to Respondent’s action in sending a letter to the Commissioner of Education, which was signed by three other Board members, the ALJ found this was not a violation of the Act. *Id.* The ALJ explained that “[a]lthough she made the ill-advised and perhaps naive decision to try to communicate directly with the Commissioner of Education, she made it clear at the beginning of the letter that she was writing as a private citizen and not as a member of the board.” *Id.* at 12 (emphasis in original). The ALJ concluded that “it does not appear that [Respondent’s] actions were self-serving in nature and/or that she would secure any personal benefit.” *Id.* at 12-13. Accordingly, the ALJ dismissed the Complaint. *Id.* at 13.

III. Analysis

Upon a thorough, careful, and independent review of the record,² the Commission agrees with the ALJ that Respondent did not violate *N.J.S.A.* 18A:12-24.1(a), *N.J.S.A.* 18A:12-24.1(c),

² The parties did not file exceptions to the Initial Decision.

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) when she wrote a letter to the Commissioner of Education as a private citizen and expressed concerns in public at the June 29, 2018, meeting. Complainant fails to demonstrate that Respondent violated a law or court order, which is required to establish a violation of *N.J.S.A.* 18A:12-24.1(a), or that Respondent's actions effectuated policy making in violation of *N.J.S.A.* 18A:12-24.1(c). The Commission concurs with the ALJ that there is no nexus between Respondent's public statement and any potential lawsuits that may be filed by any employees who were nonrenewed, and that her letter to the Commissioner of Education was expressly written as a public citizen; as such, there is insufficient evidence that Respondent took action that had the potential to compromise the Board in violation of *N.J.S.A.* 18A:12-24.1(e). Further, the Commission finds that a violation of *N.J.S.A.* 18A:12-24.1(f) is unsupported because Respondent did not take action on behalf of a special interest group, nor did she use the schools to acquire a personal benefit. Finally, the Commission finds that Complainant did not meet her burden of demonstrating that Respondent violated confidentiality provisions contrary to *N.J.S.A.* 18A:12-24.1(g).

IV. Decision

Upon review, the Commission adopts the Initial Decision concluding that Respondent did not violate *N.J.S.A.* 18A:12-24.1(a), *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(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: June 27, 2023

**Resolution Adopting Decision
in Connection with C69-18**

Whereas, at its meeting on March 26, 2019, the School Ethics Commission adopted a decision finding that the allegations in Count 1, Count 2, Count 3 and Count 5 were untimely; finding no probable cause for the alleged violations of *N.J.S.A. 18A:12-24(a)*, *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(d)*, and *N.J.S.A. 18A:12-24(g)* in Count 4; finding that the remaining allegations in Count 4 should be transmitted to the Office of Administrative Law (OAL) for a plenary hearing where Complainant shall carry the burden to prove that Respondent violated *N.J.S.A. 18A:12-24.1(a)*, *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(f)*, and/or *N.J.S.A. 18A:12-24.1(g)*; and finding the Complaint not frivolous.

Whereas, on April 2, 2019, the above-captioned matter was transmitted to the OAL; and

Whereas, following transmittal, the Administrative Law Judge (ALJ) issued an Initial Decision dated April 12, 2023; and

Whereas, in the Initial Decision, the ALJ found that Respondent did not violate *N.J.S.A. 18A:12-24.1(a)*, *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(f)*, and/or *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 May 23, 2023, the Commission reviewed and discussed the record, including the ALJ's Initial Decision; and

Whereas, at its meeting on May 23, 2023, the Commission discussed adopting the findings of fact from the Initial Decision, adopting the legal conclusion that Respondent did not violate *N.J.S.A. 18A:12-24.1(a)*, *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(e)*, *N.J.S.A. 18A:12-24.1(f)*, and/or *N.J.S.A. 18A:12-24.1(g)*, and dismissing the above-captioned matter; and

Whereas, at its meeting on June 27, 2023, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on May 23, 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 June 27, 2023.

Brigid C. Martens, Acting Director
School Ethics Commission