

Before the School Ethics Commission
OAL Docket No.: EEC-04207-22
SEC Docket No.: C94-21
Final Decision

Filomena Laforgia,
Complainant

v.

Vivian Yudin King,
Ramapo Indian Hills Regional High School District Board of Education, Bergen County,
Respondent

I. Procedural History

The above-captioned matter arises from a Complaint that was filed on December 21, 2021,¹ by Filomena Laforgia (Complainant), alleging that Vivian Yudin King (Respondent), a member of the Ramapo Indian Hills Regional High School District Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* The Complaint avers that Respondent violated *N.J.S.A.* 18A:12-24.1(a) (Count 1); *N.J.S.A.* 18A:12-24.1(b) (Count 2 and Count 4); *N.J.S.A.* 18A:12-24.1(c) (Counts 1-2); *N.J.S.A.* 18A:12-24.1(d) (Counts 1-3); *N.J.S.A.* 18A:12-24.1(e) (Counts 1-4); *N.J.S.A.* 18A:12-24.1(f) (Counts 1-2); *N.J.S.A.* 18A:12-24.1(i) (Count 1); and *N.J.S.A.* 18A:12-24.1(j) (Count 1) of the Code of Ethics for School Board Members (Code).

At its meeting on April 26, 2022, and after reviewing Respondent's Motion to Dismiss in Lieu of Answer (Motion to Dismiss) and allegation of frivolous filing, and Complainant's response thereto, the School Ethics Commission (Commission) adopted a decision finding that the Complaint was timely filed; denying the Motion to Dismiss as to the alleged violations of *N.J.S.A.* 18A:12-24.1(c) and *N.J.S.A.* 18A:12-24.1(d) in Counts 1-2; and granting the Motion to Dismiss as to all other allegations in Counts 1-4. The Commission also voted to find that the Complaint is not frivolous, to deny Respondent's request for sanctions, and to transmit the matter to the Office of Administrative Law (OAL) for a hearing. Based on its decision, the Commission also directed Respondent to file an Answer to Complaint (Answer) as to the remaining allegations, which she did on May 16, 2022.

¹ On December 21, 2021, Complainant filed a deficient Complaint; however, on December 23, 2021, 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 the OAL, following cross-motions for Summary Decision and oral argument on the motions, the Administrative Law Judge (ALJ) issued an Initial Decision on August 8, 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) and/or *N.J.S.A.* 18A:12-24.1(d) in Counts 1 and 2, and the dismissal of the above-captioned matter.

II. Initial Decision

A. Count 1

In Count 1, Complainant asserts that Respondent substituted herself for the Board Vice President to assist with awarding diplomas at a graduation ceremony without the Board President's permission and failed to follow the chain of command when she made a change to the graduation program and ceremony, in violation of *N.J.S.A.* 18A:12-24.1(c) and *N.J.S.A.* 18A:12-24.1(d).

By way of background, the Ramapo Indian Hills School District (District) has two high schools: Indian Hills High School (IHHS) and Ramapo High School (RHS), and Respondent's child was in the 2021 graduating class at IHHS. *Initial Decision* at 3. At the graduation ceremony, Respondent presented the diploma to her child. *Id.* at 6. Pursuant to Board policy, the Board President and/or another designated member of the Board shall award the diplomas, and Board members and former Board members shall be afforded the opportunity to award diplomas to their own children. *Id.* at 5.

The 2021 graduation program for IHHS listed the Interim Superintendent, the principal, the Board President, and Respondent as awarding the diplomas. *Id.* at 6. For the prior year's graduation in 2020, the graduation program indicated that the Superintendent, principal, Board Vice President, and a Board member who shared the same last name as a graduating senior were awarding the diplomas. *Id.* at 5. With respect to RHS, the graduation programs for the 2017-2021 school years all listed the Superintendent, principal, and Board President and Vice President as awarding the diplomas. *Ibid.*

An order for IHHS graduation programs, among other graduation items, was placed on March 16, 2021. *Id.* at 6. On June 3, 2021, the Superintendent's assistant left a voicemail for Complainant (the Board President), confirming that Complainant was giving an address at graduation, and that she and the Board Vice President would be giving out the diplomas, but it was not specified which high school the voicemail concerned. *Ibid.* On June 8, 2021, District staff emailed a draft of the IHHS graduation program, which contained Respondent's name. *Ibid.*

The ALJ contends "both the evidence presented and the lack of evidence is telling." *Id.* at 22. According to the ALJ, a close look at the 2020-2022 programs "is enlightening and spotlights the difference between evidence and assumption." *Ibid.* The ALJ agrees with Respondent and

notes that Complainant “pieces together information that infers, when viewed in isolation, that [R]espondent MUST have had a role in ‘changing’ the IHHS graduation program to remove [the Board Vice President’s] role in handing out diplomas and substituting herself.” *Ibid.* However, the ALJ notes a connection cannot be made to Respondent and the alleged “amendment” to the program, nor was there evidence to support that Respondent had anything to do with the graduation programs. *Id.* at 23-24. The ALJ notes that, despite Complainant’s contention, the Board policy does not assign the Board Vice President a role at graduation and instead affords Board members the opportunity to award diplomas to their own child. *Ibid.* Further, the ALJ points out that the same scenario occurred at IHHS in 2020 when the program reflected a Board member who shared the same last name as a graduating senior. *Id.* at 24. Therefore, the ALJ finds that Complainant has failed to provide sufficient factual support for her assertion that Respondent violated *N.J.S.A.* 18A:12-24.1(c) and *N.J.S.A.* 18A:12-24.1(d) and concludes that Count 1 should be dismissed. *Id.* at 24-25.

B. Count 2

In Count 2, Complainant contends that she was informed by another Board member that Respondent “had presented her strong objection” about a book, and subsequently the book was removed from the reading list, and therefore, Respondent violated *N.J.S.A.* 18A:12-24.1(c) and *N.J.S.A.* 18A:12-24.1(d).

In 2021, a book authored by Trevor Noah was placed on the District’s “suggested reading list.” *Id.* at 4. On July 29, 2021, the District’s Director of Curriculum (Director) sent an email to all Board members with a link to the curriculum documents and offered time slots for follow-up discussions. *Ibid.* Thereafter, both Complainant and Respondent scheduled meetings with the Director. *Ibid.* During her meeting, Respondent expressed concern about the Trevor Noah book, because she believed him to be anti-Semitic and misogynistic. *Ibid.* In August, Trevor Noah’s book was removed from the curriculum for the upcoming school year and the Director sent an email to Complainant on August 30, 2021, explaining the decision to remove the book from the reading list. *Ibid.* During the August 30, 2021, Board meeting, Respondent expressed her disapproval of Trevor Noah. *Id.* at 5. Complainant alleges that Respondent was responsible for the removal of the book and that she improperly used her Board position to do so. *Ibid.*

In dismissing Count 2, the ALJ notes the Director sent the email to the entire Board and extended the invitation for “questions and comments” to all recipients of the July 29, 2021, email. *Id.* at 25. The ALJ contends the “mere fact that [Respondent] expressed concerns about Mr. Noah’s character falls far short of an ethical violation.” *Ibid.* Additionally, Complainant “candidly admitted that she ‘could only imagine’ what [Respondent] did during the meeting.” The ALJ maintains, there lies the “crux of the problem,” as Complainant did not provide any facts to support that Respondent took action beyond the scope of her duties. *Ibid.* The ALJ provides that despite it being necessary to demonstrate that Respondent “inappropriately inserted” herself into an administrative issue, the evidence here shows that Respondent met with the Director in response to his email request, and that every Board member received the same invitation. *Id.* at 27-28. Therefore, the ALJ finds that Complainant has failed to provide sufficient factual support for her assertion that Respondent violated *N.J.S.A.* 18A:12-24.1(c) and *N.J.S.A.* 18A:12-24.1(d) and concludes that Count 2 should be dismissed. *Id.* at 30.

III. 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(c) and/or *N.J.S.A.* 18A:12-24.1(d) when her name appeared in the graduation program for the purpose of presenting a diploma to her child, nor when she expressed disagreement with a book on the suggested reading list that was ultimately removed from the list.

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.” Additionally, 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.

With respect to Count 1, the Commission agrees with the ALJ that Respondent did not violate *N.J.S.A.* 18A:12-24.1(c) and/or *N.J.S.A.* 18A:12-24.1(d). Board policy permits Board members to participate in graduation ceremonies and award diplomas to their own children. Respondent’s actions in participating in the ceremony fail to amount to an ethics violation as it was expressly permitted by the District. Additionally, Complainant failed to demonstrate that Respondent had any part in changing the graduation program to add her name. The Commission also notes that one year prior, the graduation program also reflected the name of a Board member who appears to have had a relative graduating. As such, Respondent did not take action unrelated to her duties as a Board member, nor did she give a direct order to school personnel or become directly involved in the activities or functions that are the responsibility of school personnel. The Commission, therefore, agrees with the ALJ that Count 1 should be dismissed.

As to Count 2, the Commission concurs with the ALJ that Respondent did not violate *N.J.S.A.* 18A:12-24.1(c) and/or *N.J.S.A.* 18A:12-24.1(d). The Director sent all Board members the curriculum and afforded each of them the opportunity to provide comments and input. Respondent is not in violation of the Act by accepting an offer to meet with District personnel regarding the curriculum when all Board members had the same opportunity. As the ALJ found, Respondent expressing concerns regarding a book on the suggested reading list, which was ultimately removed from the list, was not beyond the scope of her duties as a Board member. Additionally, Respondent did not give a direct order to school personnel to remove the book from the suggested reading list. Rather, she expressed her opinion on the curriculum after she, and all Board members, were asked to weigh in. Moreover, Complainant did not prove Respondent’s concerns with the author were the reason for the book’s removal from the suggested reading list. Accordingly, the Commission agrees with the ALJ that Count 2 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) and/or *N.J.S.A.* 18A:12-24.1(d) in Counts 1 and 2, 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 C94-21***

Whereas, at its meeting on July 26, 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 August 8, 2023; and

Whereas, in the Initial Decision, the ALJ found that Respondent did not violate *N.J.S.A.* 18A:12-24.1(c) and/or *N.J.S.A.* 18A:12-24.1(d), 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) and/or *N.J.S.A.* 18A:12-24.1(d) in Counts 1 and 2, 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