

***Before the School Ethics Commission***  
***Docket No.: C96-22***  
***Decision on Motion to Dismiss***

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**Patricia Dunham,**  
***Complainant***

v.

**Anthony Ingrassia,**  
**Watchung Borough Board of Education, Somerset County,**  
***Respondent***

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**I. Procedural History**

The above-captioned matter arises from a Complaint that was filed on October 17, 2022, by Patricia Dunham (Complainant), alleging that Anthony Ingrassia (Respondent), a member of the Watchung Borough Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.* More specifically, the Complaint avers that Respondent violated *N.J.S.A. 18A:12-24.1(a)* of the Code of Ethics for School Board Members (Code) in Count 1; *N.J.S.A. 18A:12-24.1(b)* of the Code in Count 2; *N.J.S.A. 18A:12-24.1(i)* of the Code in Count 3; and *N.J.S.A. 18A:12-24.1(e)* of the Code in Count 4.

On October 19, 2022, the Complaint was served on Respondent via electronic mail, notifying him that ethics charges had been filed against him with the School Ethics Commission (Commission), and advising that he had twenty (20) days to file a responsive pleading.<sup>1</sup> On November 22, 2022, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and also alleged that the Complaint is frivolous. On December 22, 2022, Complainant filed a response to the Motion to Dismiss and allegation 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 Motion to Dismiss and allegation of frivolous filing. Following its discussion on January 31, 2023, the Commission adopted a decision at its meeting on February 21, 2023, granting the Motion to Dismiss in its entirety because Complainant failed to plead sufficient credible facts to support a finding that Respondent violated *N.J.S.A. 18A:12-24.1(a)* of the Code Count 1; *N.J.S.A. 18A:12-24.1(b)* of the Code in Count 2; *N.J.S.A. 18A:12-24.1(i)* of the Code in Count 3; and/or *N.J.S.A. 18A:12-*

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<sup>1</sup> 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.

24.1(e) of the Code in Count 4. The Commission also adopted a decision finding the Complaint not frivolous, and denying Respondent's request for sanctions.

## **II. Summary of the Pleadings**

### **A. *The Complaint***

In Count 1, Complainant indicates that at the Board meeting on August 25, 2022, Respondent stated he did not agree with the Board's approach to the new "health and sex ed[ucation] curriculum" and, therefore, would be voting "no" on the proposed curriculum. At this same meeting, Respondent also voted "no" on the "social studies and gifted [and] talented curriculum." At the Board meeting on September 22, 2022, and regarding his "no" vote on the new health and sex education curriculum, Respondent stated he did not "feel that the community was given enough information on the curriculum and how the teachers are going to handle the new standards." Respondent also offered some additional statements/comments explaining the basis for his vote, including that he did not feel the Watchung Borough School District's (District) information session "was good enough in consulting the community on the curriculum." According to Complainant, Respondent's comments were an "unethical critique of the job performance of [p]rincipals who conducted community outreach," and by voting "no" on the new health and sex education curriculum, Respondent failed to "uphold and enforce all laws, rules and regulations of the State Board of Education and court orders pertaining to schools" in violation of *N.J.S.A.* 18A:12-24.1(a).

In Count 2, Complainant contends that Respondent violated *N.J.S.A.* 18A:12-24.1(b) because, at the Board meeting on August 25, 2022, he voted "no" on the "social studies and gifted [and] talented curriculum," and because he voted "no" on the "Health Education curriculum" at the Board meeting on September 22, 2022. Per Complainant, by voting against the "social studies and gifted [and] talented curriculum" and by voting "no" on the "Health Education Curriculum," Respondent did not make decisions in terms of the educational welfare of all children, and did not "seek to develop and maintain public schools [that] meet the individual needs of all children."

In Count 3, Complainant states that, at the Board meeting on August 25, 2022, Respondent stated "that there was a PURPOSEFUL decision to put the health curriculum standards into the social studies curriculum." Although the Superintendent indicated it was a mistake, Respondent said the principals "purposefully wrote those standards into the social studies curriculum to sneak in sex ed[ucation] standards ... ." Ultimately, and at this meeting, Respondent "voted no on the social studies and gifted [and] talented curriculum." According to Complainant, "[b]y falsely accusing the staff of purposefully putting in health ed[ucation] standards into the Social Studies curriculum he is not supporting or protecting school personnel in proper performance of their duties" in violation of *N.J.S.A.* 18A:12-24.1(i). In addition, at the Board meeting on September 22, 2022, Respondent stated that he voted "no" on the "Health Education Curriculum" because he felt that "we should have parents input throughout the curriculum writing process." According to Complainant, by voting "no" on the "Health Education Curriculum" and by providing statements, Respondent did not support and protect school personnel in the proper performance of their duties in violation of *N.J.S.A.* 18A:12-

24.1(i). Per Complainant, Respondent “is making our teachers and administration targets in our community due to his twisted comments of the facts.”

In Count 4, Complainant states that Respondent “sent an invitation out to the Watchung Community on Facebook ... in which he invited everyone over his house for a ... Board ... candidate meet and great fundraiser” on October 16, 2022. Of note, Respondent did not run for a seat in November 2022, but rather supported others who were running. On the flyer, Respondent noted that the event was hosted by “The Ingrassia’s,” but did not “state that he was conducting this meet and greet as a private citizen,” or that he was not representing the Board. With this flyer, Respondent did not recognize that authority rests with the Board, and instead took private action that could compromise the Board in violation of *N.J.S.A.* 18A:12-24.1(e).

**B. *Motion to Dismiss and Allegation of Frivolous Filing***

In his Motion to Dismiss and allegation of frivolous filing, Respondent argues that the Complaint must be dismissed with prejudice because, on its face, it fails to allege facts sufficient to establish a violation of the Act. Moreover, the Complaint is frivolous, and Complaint should be sanctioned.

As for the purported violation of *N.J.S.A.* 18A:12-24.1(a) in Count 1, Respondent counters that Complainant “failed to cite or include a copy of any law, rule, regulation, or court order pertaining to schools and thus failed to comply with the implementing regulation of the alleged violated statute.” In addition, “the general reference provided as to the reasons for [Respondent’s] decision to vote ‘no’ on a particular issue is nothing more than [Complainant’s] unsubstantiated opinion, and irrelevant.” Therefore, Count 1 should be dismissed.

Regarding the alleged violation of *N.J.S.A.* 18A:12-24.1(b) in Count 2, Respondent argues that “Complainant has failed to provide any evidence that [Respondent] made any decision that was contrary to the educational welfare of children or took any action to obstruct programs and policies to meet the individual needs of all children.” Instead, Complainant has demonstrated that Respondent “voted against the Social Studies and Gifted & Talented Curriculum and Health Education curriculum based upon his opinion,” and a vote “against a curriculum which [Respondent] believed was placed in the wrong subject area is not contrary to the educational welfare of children, nor is it obstruction of programs or policies in the schools.” Moreover, Respondent’s “no” vote “simply does not constitute a “decision” relating to the welfare of children and/or “action” relating to programs or policies.” As a result, Count 2 should be dismissed.

As for the purported violation of *N.J.S.A.* 18A:12-24.1(i) in Count 3, Respondent counters that “Complainant offers no evidence that [Respondent’s] statements pointing out the mistake of putting Health curriculum into Social Studies curriculum undermined, opposed, compromised or harmed school personnel in proper performance of their duties.” In addition, after this mistake was pointed out, it was changed. Further, in previous cases, such as *Bey v. Brown*, the Commission has found that a violation of *N.J.S.A.* 18A:12-24.1(i) requires “more flagrant action” than that at issue here. Per Respondent, his comment, which was proven correct,

is not sufficiently flagrant to constitute a violation of *N.J.S.A.* 18A:12-24.1(i).” Therefore, Count 3 should be dismissed.

Regarding the alleged violation of *N.J.S.A.* 18A:12-24.1(e) in Count 4, Respondent argues that Complainant does not detail any “personal promises made by [Respondent], nor does she provide any factual support for her conclusory statements that his actions compromised the Board.” Moreover, Complainant has not provided evidence that the invitation was sent by Respondent, and he denies that he sent it; and there are no facts or allegations in the Complaint “that could evidence an impermissible personal promise from the Respondent to anyone, and no facts indicating that Respondent took any action beyond the scope of his duties as a Board [m]ember.” As a result, Count 4 should be dismissed.

Finally, Respondent submits that the Complaint is frivolous because it does not have a factual basis; it “unjustifiably demonizes a public servant who was simply exercising his right as a sitting [B]oard member to vote, based upon his beliefs regarding curriculum changes in significant areas like Health Education, and to bring to the Board’s attention [to] an error in the proposed Social Studies curriculum”; and because Complainant is the mother of the current Board President, “it could be argued that her filing ... is simply retaliation for [Respondent] not agreeing and/or voting with [Complainant’s] daughter on” the issues set forth in the Complaint.

### **C. *Response to Motion to Dismiss and Allegation of Frivolous Filing***

In her response to the Motion to Dismiss and allegation of frivolous filing, Complainant notes that she is relying “upon the facts and evidence provided” in her Complaint, and requests that the Complaint not be dismissed. However, Complainant did not directly address Respondent’s claim that the Complaint is 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 violated *N.J.S.A.* 18A:12-24.1(a) of the Code Count 1; *N.J.S.A.* 18A:12-24.1(b) of the Code in Count 2; *N.J.S.A.* 18A:12-24.1(i) of the Code in Count 3; and/or *N.J.S.A.* 18A:12-24.1(e) of the Code in Count 4.

### **B. *Alleged Violations of the Act***

Complainant submits that, based on the conduct more fully detailed above, Respondent violated *N.J.S.A.* 18A:12-24.1(a) of the Code Count 1; *N.J.S.A.* 18A:12-24.1(b) of the Code in

Count 2; *N.J.S.A.* 18A:12-24.1(i) of the Code in Count 3; and *N.J.S.A.* 18A:12-24.1(e) of the Code in Count 4, and these provisions provide:

a. I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures.

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.

i. I will support and protect school personnel in proper performance of their duties.

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

1. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(a) shall include a copy of a final decision from any court of law or administrative agency of this State demonstrating that Respondent failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that Respondent brought about changes through illegal or unethical procedures.

2. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(b) shall include evidence that Respondent willfully made a decision contrary to the educational welfare of children, or evidence that Respondent 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 Respondent made personal promises or took action beyond the scope of his duties such that, by its nature, had the potential to compromise the board.

9. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(i) shall include evidence that Respondent took deliberate action which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties.

***Alleged Violation of N.J.S.A. 18A:12-24.1(a)***  
***(Count 1)***

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 violated *N.J.S.A. 18A:12-24.1(a)*. Although required by *N.J.A.C. 6A:28-6.4(a)(1)* to establish a violation of *N.J.S.A. 18A:12-24.1(a)*, Complainant has not provided **a copy of a final decision** from any court of law or other administrative agency demonstrating or finding that Respondent violated any specific law(s), rule(s), or regulation(s) of the State Board of Education and/or court orders pertaining to schools, or that he brought about changes through illegal or unethical procedures, when he engaged in any of the actions/conduct set forth in the Complaint, or in Count 1 specifically.

To the extent that Complainant can provide, within the period of limitations, “a final decision from any court of law or administrative agency of this State” demonstrating that an individual school official, including Respondent, acted contrary to the laws, rules, and regulations promulgated by the State Board of Education, he could *then* be found in violation of *N.J.S.A. 18A:12-24.1(a)*. In the absence of the required final decision(s), and based on the current record, the Commission is forced to dismiss the alleged violation of *N.J.S.A. 18A:12-24.1(a)* in Count 1.

***Alleged Violations of N.J.S.A. 18A:12-24.1(b), N.J.S.A. 18A:12-24.1(i)***  
***and N.J.S.A. 18A:12-24.1(e)***  
***(Counts 2-4)***

Based on its review, the Commission additionally finds that even if the facts as set forth in Counts 2-4 are proven true by sufficient credible evidence, they would not support a determination that Respondent violated *N.J.S.A. 18A:12-24.1(b)*, *N.J.S.A. 18A:12-24.1(i)*, and/or *N.J.S.A. 18A:12-24.1(e)*. Even if Respondent voted “no” on the “social studies and gifted [and] talented curriculum” at the Board meeting on August 25, 2022, and voted “no” on the “Health Education curriculum” at the Board meeting on September 22, 2022 (Count 2 and Count 3); stated, at the Board meeting on August 25, 2022, his belief/opinion that there was a purposeful decision to put the new health and physical education standards in the “wrong” part of the curriculum (Count 3); and sent out an invitation and/or hosted a meet and greet at his home for certain Board candidates (Count 4), Complainant still has not provided sufficient factual evidence that Respondent willfully made a decision contrary to the educational welfare of children, or evidence that Respondent 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 (*N.J.S.A. 18A:12-24.1(b)* in Count 2); took deliberate action which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties (*N.J.S.A. 18A:12-24.1(i)* in Count 3); and/or made personal promises or took action beyond the scope of his duties such that, by its nature, had the potential to compromise the Board (*N.J.S.A. 18A:12-24.1(e)* in Count 4).

Every member of the Board has the prerogative, and in fact the individual obligation and responsibility, to discuss and vote on matters that are presented to the public body for consideration and action. Furthermore, there is no requirement for any member of the Board to vote with the majority of the Board, to vote as recommended by the Board President or the District's administration, and/or to refrain from offering comment or opinion merely because the sentiment is not shared by the District's administration, the community, or even the other members of the Board. To suggest, as Complainant has with the filing of this Complaint, that Respondent's vote on certain Board matters, and also his comments regarding items about which he was required to vote, is somehow unethical or violative of his duties and responsibilities as a Board member is misplaced. Although the Commission concedes that a Board member's vote and/or comments could violate the Act in certain circumstances, the predicate facts and circumstances are not presented here, and fail to possibly establish a violation of *N.J.S.A.* 18A:12-24.1(b) in Count 2 and *N.J.S.A.* 18A:12-24.1(i) in Count 3.

Finally, and regarding the claims in Count 4, Complainant's factual evidence consists of a flyer inviting members of the community to attend a meet and greet at Respondent's home. However, there is no indication as to who authored the flyer, how it was distributed, or to whom it was distributed. Instead, the flyer merely evidences that Respondent agreed to host an event at his home; no more, no less. Not only do such facts fail to suggest that Respondent made a personal promise, they equally fail to show that he took action beyond the scope of his duties that could even remotely compromise the Board in violation of *N.J.S.A.* 18A:12-24.1(e).

#### **IV. Request for Sanctions**

At its special meeting on January 31, 2023, the Commission considered Respondent's request that the Commission find the Complaint frivolous, and impose sanctions pursuant to *N.J.S.A.* 18A:12-29(e). Despite Respondent's 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 Motion to Dismiss in its entirety because Complainant failed to plead sufficient credible facts to support a finding that Respondent violated *N.J.S.A.* 18A:12-24.1(a) of the Code Count 1; *N.J.S.A.* 18A:12-24.1(b) of the Code in Count 2; *N.J.S.A.* 18A:12-24.1(i) of the Code in Count 3; and/or *N.J.S.A.* 18A:12-24.1(e) of the Code in Count 4. The Commission also voted to find that the Complaint is not frivolous, and to deny Respondent's request for sanctions.

Pursuant to *N.J.S.A.* 18A:12-29(b), the Commission hereby notifies Complainant and Respondent 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).*

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Robert W. Bender, Chairperson

Mailing Date: February 21, 2023



***Resolution Adopting Decision  
in Connection with C96-22***

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

***Whereas***, at a special meeting on January 31, 2023, the Commission discussed granting the Motion to Dismiss in its entirety for failure to plead sufficient credible facts to support the allegations that Respondent violated *N.J.S.A.* 18A:12-24.1(a) of the Code Count 1; *N.J.S.A.* 18A:12-24.1(b) of the Code in Count 2; *N.J.S.A.* 18A:12-24.1(i) of the Code in Count 3; and/or *N.J.S.A.* 18A:12-24.1(e) of the Code in Count 4; and

***Whereas***, at a special meeting on January 31, 2023, the Commission discussed finding the Complaint not frivolous, and denying the request 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.

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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.

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