

***Before the School Ethics Commission  
OAL Docket No.: EEC-00199-22  
SEC Docket No.: C21-21  
Final Decision***

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**Anthony DePasquale,  
Complainant**

v.

**Jing Wei “Jerry” Shi,  
Edison Township Board of Education, Middlesex County,  
Respondent**

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**I. Procedural History**

The above-captioned matter arises from a Complaint that was filed on June 14, 2021, by Anthony DePasquale (Complainant), alleging that Jing Wei “Jerry” Shi (Respondent), a member of the Edison Township 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(f) of the Code of Ethics for School Board Members (Code) when his name, picture, and position as Board President appeared on a campaign poster for the mayor’s official Facebook page during the mayoral election.

At its meeting on October 19, 2021, and after reviewing Respondent’s Motion to Dismiss in Lieu of Answer (Motion to Dismiss) and allegation of frivolous filing, as well as Complainant’s response thereto, the School Ethics Commission (Commission) adopted a decision denying the Motion to Dismiss as to the alleged violation of *N.J.S.A.* 18A:12-24.1(f). The Commission also voted to find that the Complaint was 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 the Complaint (Answer), which he did on December 10, 2021.

At the OAL, a hearing was held on August 24, 2023. At the conclusion of Complainant’s case, Respondent renewed his Motion to Dismiss previously submitted to the Commission, which the Administrative Law Judge (ALJ) denied. Thereafter, the ALJ issued an Initial Decision on January 29, 2024, dismissing the matter. The parties did not file exceptions to the Initial Decision.

At its special meeting on February 27, 2024, the Commission discussed the above-captioned matter, and at its meeting on March 26, 2024, 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(f), and the dismissal of the above-captioned matter.

## II. Initial Decision

On April 2, 2021, a campaign poster with Respondent's picture and title as the "Edison Board of Education President," in support of the mayoral candidate, was posted on the official Facebook page of the mayoral candidate. *Initial Decision* at 3. The campaign poster contained a disclaimer, in small print at the bottom, indicating that the endorsement was in Respondent's individual capacity as a citizen and resident of Edison, and is not offered on behalf of the Board. *Ibid.* The campaign Facebook page showed a partial view of the "like" icon that Complainant attributed to Respondent. *Ibid.* Complainant responded to the post by asking why Respondent was endorsing the mayoral candidate using his title of Board president. *Ibid.* Sometime later, Respondent's title of Board President was removed from the poster and the disclaimer was enlarged. *Id.* at 4.

The ALJ finds that Respondent "testified credibly that he was neither aware of the advertisement, nor consulted prior to the posting on [Facebook], nor involved in designing the advertisement." *Id.* at 8. Additionally, the campaign consultant also testified credibly that Respondent was not involved in the design of the advertisement and that it "was not his practice to get approval from supporters for endorsements." *Ibid.*

The ALJ asserts that although the disclaimer was small, it was clear and visible, and further indicated that Respondent's endorsement was made in his capacity as a private citizen. *Id.* at 12. Further, the ALJ notes that Complainant did not provide any evidence to dispute testimony of the campaign consultant, and therefore, the ALJ concludes that although the disclaimer was small, it met the guidelines mandated by the Commission, and Complainant has not met his burden to prove that Respondent took action on behalf of or at the request of the mayor's team or that Respondent used the schools for personal gain or for the gain of friends. *Ibid.*

Furthermore, despite Complainant's testimony that Respondent "liked" the post, Respondent testified that his wife also has access to his social media account and perhaps inserted the "like." *Id.* at 13. The ALJ concludes Complainant did not provide any evidence to support that Respondent "liked" the post, and therefore, failed to carry the burden to prove Respondent took action on behalf of or at the request of the mayor, or that he used the schools to acquire some benefit for himself, a member of his immediate family or a friend. *Ibid.*

Additionally, the ALJ acknowledges the Commission's advice in *Advisory Opinion* A02-06 and *Advisory Opinion* A03-07 and concludes that Respondent's "endorsement with the disclaimer is permitted political activity that is unrelated to his duties as a Board member and there is no showing that his independent judgment has been surrendered to [the mayor]." *Id.* at 13-14.

Finally, as to Complainant's assertion that Respondent's testimony regarding whether he was asked to endorse the mayor was "inconsistent," the ALJ concludes even if Respondent was asked to endorse the mayor, and agreed to do so, this does not substantiate the allegation that Respondent used his official position to promote the mayor nor that he used the schools in order to gain a benefit for himself or the mayor. *Id.* at 14.

Therefore, the ALJ found a violation of *N.J.S.A.* 18A:12-24.1(f) was not established and dismissed the Complaint.

### **III. Analysis**

Upon a thorough, careful, and independent review of the record, the Commission adopts the ALJ's factual findings, the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24.1(f), and the dismissal of this matter.

*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 agrees with the ALJ that Respondent did not surrender his judgment to the mayor or use the schools to gain a benefit for himself or for the mayor. According to Respondent's testimony, which the ALJ found to be credible, he was not aware of the advertisement or consulted prior to the advertisement's posting on Facebook. Additionally, Complainant did not prove that Respondent approved the advertisement by "liking" it on Facebook, as Respondent testified that his wife shares his Facebook account and may have pressed "like." Furthermore, while the original campaign poster contained a disclaimer, it was subsequently removed from Facebook and revised after Complainant expressed concern over the advertisement. Specifically, Respondent's title of Board President was removed and the disclaimer was enlarged. As Respondent did not authorize the Facebook post, he did not take any action, and therefore, did not surrender his judgment to a special interest or partisan political group, or use the schools for personal gain or for the gain of friends. As such, Respondent is not in violation of *N.J.S.A.* 18A:12-24.1(f).

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

### **IV. Decision**

Upon review, the Commission adopts the Initial Decision's findings of fact, the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24.1(f), and the dismissal of 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:28-9.10(b) and *New Jersey Court Rule* 2:2-3(a). Under *New Jersey Court Rule* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.

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Robert W. Bender, Chairperson

Mailing Date: March 26, 2024

***Resolution Adopting Decision  
in Connection with C21-21***

***Whereas***, at its meeting on October 19, 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 January 29, 2024; and

***Whereas***, in the Initial Decision, the ALJ found that Respondent did not violate *N.J.S.A.* 18A:12-24.1(f) 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 special meeting on February 27, 2024, the Commission reviewed and discussed the record, including the ALJ's Initial Decision; and

***Whereas***, at its special meeting on February 27, 2024, 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(f), and the dismissal of the above-captioned matter; and

***Whereas***, at its meeting on March 26, 2024, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its special meeting on February 27, 2024; and

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

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Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its meeting on March 26, 2024.

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Brigid C. Martens, Director  
School Ethics Commission