

***Before the School Ethics Commission***  
***Docket No.: C32-24***  
***Decision on Probable Cause***

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**Elizabeth Strochak,**  
***Complainant***

v.

**Douglas Walker,**  
**Alexandria Township Board of Education, Hunterdon County,**  
***Respondent***

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**I. Procedural History**

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on March 25, 2024, by Elizabeth Strochak (Complainant), alleging that Douglas Walker (Respondent), a member of the Alexandria 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(a)* of the Code of Ethics for School Board Members (Code) in Counts 1-4. Respondent filed a Written Statement on April 16, 2024.

The parties were notified by correspondence dated October 15, 2024, that the above-captioned matter would be discussed by the Commission at its meeting on October 22, 2024, in order to make a determination regarding probable cause. Following its discussion on October 22, 2024, the Commission adopted a decision at its meeting on November 26, 2024, finding that there are insufficient facts and circumstances pled in the Complaint and in the Written Statement to lead a reasonable person to believe that the Act was violated as alleged in the Complaint.

**II. Summary of the Pleadings**

**A. *The Complaint***

By way of background, Complainant asserts that Respondent has violated the Open Public Meetings Act (OPMA), *N.J.S.A. 10:4-6 et seq.* (the Sunshine Law), on several occasions. More specifically, Complainant notes that the violations occurred at the January 18, 2024, February 7, 2024, and March 7, 2024, Board meetings, and on June 8, 2023 (discovered on February 29, 2024), when he “spoke as a Board member during a [T]ownship committee meeting along with all the other Board members.” Complainant notes she contacted the Board on January 18, 2024, requesting clarification on the executive sessions and she did not receive a response. Consequently, Complainant submitted an Open Public Records Act (OPRA) request on January 24, 2024, requesting the recordings of the Board meetings, which was denied. Thereafter,

Complainant asserts she filed a Complaint with the Government Records Council (GRC), which is still pending, and then she received the audio on February 8, 2024. Despite the pending GRC complaint, Complainant asserts this matter is not pending in another agency.<sup>1</sup>

With the above in mind and in Count 1, Complainant asserts at the January 18, 2024, Board meeting, Respondent made a motion to add a second executive session, because the “‘budget portal’ opened [two] days ago and the [B]oard hasn’t had a chance to discuss this.” According to Complainant, when the Board returned to public session, Respondent stated that the Board now has the funds for a School Resource Officer and “that is what they just went out to talk about so we are all on the same page.” Complainant further asserts this is a violation of *N.J.S.A.* 18A:12-24.1(a) because the Board failed to uphold and enforce all laws, rules and regulations of the State Board of Education when Respondent failed to follow the rules of OPMA “by holding an executive session on the topic of budget that did not meet [] any of the nine (9) exceptions as listed.”

In Count 2, Complainant contends that at the February 7, 2024, meeting, Complainant, along with another member of the public questioned the executive session of the January 18, 2024, meeting. According to Complainant, while Respondent was answering the inquiries another Board member disputed his statement. Thereafter, Complainant asserts that Respondent indicated the Board would be going into executive session, Complainant asked what topics would be discussed, and Respondent indicated “Collective Bargaining,” which according to Complainant was not listed on the agenda. Complainant further contends Respondent violated *N.J.S.A.* 18A:12-24.1(a) because he failed to follow the rules of OPMA “by holding an executive session without disclosing the matters” related thereto.

In Count 3, Complainant maintains at the March 7, 2024, meeting, “Budget” was listed as an executive session matter, and Complainant again reminded Respondent that “Budget” was not an approved matter for executive session. Per Complainant, Respondent then stated, “executive session will be about personnel and pending litigation.” Complainant further maintains Respondent violated *N.J.S.A.* 18A:12-24.1(a) because he failed to follow the rules of OPMA “by holding an executive session without accurately disclosing the matters regarding the executive session” and without meeting any of the nine exceptions listed.

In Count 4, Complainant notes, “it was observed on February 29, 2024, while listening to a recording of” a Township committee meeting that was held on June 28, 2023, that Respondent spoke at the Township meeting as a Board member, on behalf of the Board, regarding a lawsuit that was filed by the Township Committee. Complainant asserts Respondent violated *N.J.S.A.* 18A:12-24.1(a) because he failed to follow the rules of OPMA, when he attended and spoke as a Board member, during a Township Committee meeting with all nine members of the Board acting as a quorum.

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<sup>1</sup> The Commission notes that the challenge to the OPRA request that is pending at the GRC is not the subject matter of this Complaint, and therefore, this matter is not pending an any court of law or administrative agency of this State. *N.J.S.A.* 18A:12-32.

## **B. *Written Statement***

Respondent argues that Complainant “bases all of the allegations in her Complaint upon violations of the OPMA,” which the Commission lacks jurisdiction to decide. Moreover, Complainant “attempts to weave the [Act] into her complaint by alleging that [Respondent’s] OPMA violations violate *N.J.S.A.* 18A:12-24.1(a), and the OPMA does not “qualify as a law, rule or regulation of the State Board of Education.” Therefore, Respondent requests that the Complaint be dismissed with prejudice for lack of jurisdiction.

## **III. *Analysis***

This matter is before the Commission for a determination of probable cause pursuant to *N.J.A.C.* 6A:28-9.7. A finding of probable cause is not an adjudication on the merits but, rather, an initial review whereupon the Commission makes a preliminary determination as to whether the matter should proceed to an adjudication on the merits, or whether further review is not warranted. Pursuant to *N.J.A.C.* 6A:28-9.7(a), probable cause “shall be found when the facts and circumstances presented in the complaint and written statement would lead a reasonable person to believe that the Act has been violated.”

### ***Jurisdiction of the Commission***

In reviewing the allegations in this matter, the Commission notes that its authority is limited to enforcing the Act, *N.J.S.A.* 18A:12-21 *et seq.*, a set of minimum ethical standards by which all school officials must abide. In this regard, the Commission has jurisdiction only over matters arising under the Act, and it may not receive, hear, or consider any matter that does not arise under the Act, *N.J.A.C.* 6A:28-1.4(a).

With the jurisdiction of the Commission in mind, to the extent that Complainant seeks a determination from the Commission that Respondent may have violated the OPMA/Sunshine Law and/or any Board policies, the Commission advises that such determinations fall beyond the scope, authority, and jurisdiction of the Commission. Although Complainant may be able to pursue a cause of action(s) in the appropriate tribunal, the Commission is not the appropriate entity to adjudicate those claims. Accordingly, those claims are dismissed.

### ***Alleged Violations of the Act***

Complainant submits that Respondent violated *N.J.S.A.* 18A:12-24.1(a), and this provision of the Code provides:

- 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.

***N.J.S.A. 18A:12-24.1(a)***

Complainant alleges that Respondent violated *N.J.S.A. 18A:12-24.1(a)* in Counts 1-4, when he violated the OPMA on three occasions by improperly entering executive session, and on one occasion when he spoke at a Township committee meeting in which the entire Board was present. Respondent argues that the Commission does not have jurisdiction over the OPMA.

Pursuant to *N.J.A.C. 6A:28-6.4(a)*, 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.

After review, the Commission finds that there are insufficient facts and circumstances presented in the Complaint and the Written Statement to lead a reasonable person to believe that *N.J.S.A. 18A:12-24.1(a)* was violated. Despite being required by *N.J.A.C. 6A:28-6.4(a)(1)*, the Commission finds that Complainant has not provided a copy of a final decision from any court of law or other administrative agency demonstrating or specifically finding that Respondent violated a specific law, rule, or regulation 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 acts/conduct set forth in the Complaint. Without the required final decision(s), a violation of *N.J.S.A. 18A:12-24.1(a)* is not supported. Consequently, and pursuant to *N.J.A.C. 6A:28-9.7(b)*, the Commission dismisses the alleged violation of *N.J.S.A. 18A:12-24.1(a)* in Counts 1-4.

**IV. Decision**

In accordance with *N.J.S.A. 18A:12-29(b)*, and for the reasons detailed herein, the Commission hereby notifies Complainant and Respondent that there are insufficient facts and circumstances pled in the Complaint and in the Written Statement to lead a reasonable person to believe that the Act was violated as alleged in the Complaint and, consequently, dismisses the above-captioned matter. *N.J.A.C. 6A:28-9.7(b)*.

The within 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)*. 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: November 26, 2024

***Resolution Adopting Decision  
in Connection with C32-24***

***Whereas***, at its meeting on October 22, 2024, the School Ethics Commission (Commission) considered the Complaint and the Written Statement submitted in connection with the above-referenced matter; and

***Whereas***, at its meeting on October 22, 2024, the Commission discussed finding that the facts and circumstances presented in the Complaint and the Written Statement would not lead a reasonable person to believe that the Act was violated, and therefore, dismissing the above-captioned matter; and

***Whereas***, at its meeting on November 26, 2024, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on October 22, 2024; 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 November 26, 2024.

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Brigid C. Martens, Director  
School Ethics Commission