

***Before the School Ethics Commission***  
***Docket No.: C34-24***  
***Decision on Probable Cause***

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**Michelle Scott,**  
***Complainant***

v.

**Ann Luck-Deak,**  
**Jamesburg Board of Education, Middlesex 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 April 2, 2024, by Michelle Scott (Complainant), alleging that Ann Luck-Deak (Respondent), a member of the Jamesburg 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) (Counts 1 and 3), *N.J.S.A.* 18A:12-24.1(c) (Count 3), *N.J.S.A.* 18A:12-24.1(e) (Count 2) and *N.J.S.A.* 18A:12-24.1(g) (Count 3) of the Code of Ethics for School Board Members (Code). Respondent filed a Written Statement on April 23, 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 is a Board member who also serves as the Jamesburg representative to the Monroe Township Board of Education (Monroe). According to Complainant, Monroe Board members have tried to intimidate her to vote a certain way, but she has always voted for what she felt to be best, and therefore, she has been targeted by Monroe residents.

In Count 1, Complainant notes that, using her personal Facebook account, she replied to comments about the increase in state aid that Jamesburg received compared to Monroe, and

indicated that Jamesburg has had an “influx of illegal residents which increased the need for more [English as a Second Language (ESL)] classes, teachers, administrative staff and supplies.” Consequently, Complainant maintains that Respondent, as well as a number of Monroe residents, reposted Complainant’s comments, “which caused a social media campaign calling [her] racist.” Complainant asserts that Respondent is using Complainant’s personal Facebook comment to take action against her by attempting to remove her as the Monroe representative. According to Complainant, her “removal has never been discussed by all [B]oard members at any meeting.” Complainant further asserts that Respondent violated *N.J.S.A. 18A:12-24.1(a)* because Respondent is taking action against Complainant and a “Board President is not authorized by the law or any powers given to her to take any action against any board member.”

In Count 2, Complainant maintains that at a special Board meeting, Respondent informed the public that the Board would be sending a new representative from the Board to the Monroe Board meetings. According to Complainant, only the full Board can take action, and the Board did not have a meeting to discuss changing representatives and it was not on any agendas that a new representative was being considered. Therefore, Complainant contends that Respondent took private action in violation of *N.J.S.A. 18A:12-24.1(e)*, because she made a personal promise, during a Board meeting, to remove Complainant as the Jamesburg representative on the Monroe Board.

In Count 3, by way of background, Complainant notes that former Board member Jorge Torres stated during a July 13, 2023, Board retreat that the Board needs “to find an African American board member,” to which Complainant replied that she is African American, and therefore, there was no need to “find one.” Complainant asserts that Respondent was the Vice President at the time and did not denounce his comment. Complainant further notes that Mr. Torres disclosed confidential information regarding teacher vacancies in July 2022. Additionally, Complainant asserts that on November 16, 2023, Mr. Torres was not present for three meetings in a row, but the Board President and Respondent indicated that “it was not necessary to formally remove him as he was not seeking reelection.” Complainant maintains that Respondent “has stood in accord with Mr. Torres’ constant violations of ethics and is now taking personal action on Mr. Torres’ behest to remove [Complainant] as the Monroe [r]epresentative,” in violation of *N.J.S.A. 18A:12-24.1(a)*, *N.J.S.A. 18A:12-24.1(c)* and *N.J.S.A. 18A:12-24.1(g)*.

**B. *Written Statement***

Initially, Respondent asserts that contrary to Complainant’s belief that she is “entitled to serve as the delegate for the entire year, a motion to reappoint a different envoy to Monroe is always possible, so long as the proper procedures for introduction by motion and adoption by Board vote are followed.” Respondent notes that Complainant’s Facebook comments did not include a disclaimer indicating that she was speaking as a private person, and her posts resulted in a “public outcry, and deepening concerns that [Complainant] would be the ‘face’ of Jamesburg” on the Monroe Board. Respondent further notes that much of the Complaint is directed at the conduct of other individuals, not Respondent, “and are wholly irrelevant to whether [the Board] decides to hold a vote to appoint a new delegate to” Monroe. Further, Respondent maintains that Board members are “free to make a motion for the Board’s

consideration and vote, without the need to provide advance notice to all Board [m]embers,” and that if Board members disagree, they can either refuse to second the motion or vote against it.

As to Count 1, Respondent argues that Complainant has not provided a copy of a final decision, as required to sustain an allegation of *N.J.S.A.* 18A:12-24.1(a).

As to Count 2, Respondent maintains that Complainant did not provide any evidence that demonstrates Respondent “made personal promises” of any kind, or that she took action beyond the scope of her duties that may compromise the Board by having a conversation with other Board members regarding the “delegate position.” Respondent further maintains that she was speaking as a Board member at a public meeting “regarding what she understood to be improper actions by a fellow Board member.” Per Respondent, she was not “speaking as a private citizen regarding a personal matter outside of Board business” and her comments related to the “business and continued operation” of the Board and did not reveal any Board confidences. According to Respondent, she expressed her concerns regarding Complainant’s comments on social media, “which were problematic and caused multiple citizens to comment on the inappropriate nature of her post at a Monroe Board” meeting. Respondent argues that her concerns related to Complainant and do not have the “potential to compromise the Board.”

Finally, regarding Count 3, Respondent initially argues the actions of former Board member Torres occurred in July 2023, and therefore, are time barred, and if not considered untimely, Respondent notes once again, Complainant has not provided a copy of a final decision to sustain a violation of *N.J.S.A.* 18A:12-24.1(a). As to a violation of *N.J.S.A.* 18A:12-24.1(c), Respondent argues “there is nothing impermissible about the Board President speaking with other Board [m]embers about a controversial matter, so long as there was not a meeting in violation” of the Open Public Meetings Act (OPMA). Moreover, Complainant has not identified any Board action that Respondent undertook that was outside her duties as a Board member, and even if a motion was made to add a matter to the agenda, it would have been added and made in accordance with the proper procedures and does not rise to a violation of the Code. Finally, as to a violation of *N.J.S.A.* 18A:12-24.1(g), Respondent argues that Complainant alleges that Mr. Torres disclosed confidential information, but does not allege that Respondent has done so. According to Respondent, she cannot “be held responsible by proxy for the actions of another individual.” Therefore, Respondent requests that the Commission should find that probable cause does not exist and dismiss the matter.

### **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.”

### *Alleged Violations of the Act*

Complainant submits 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) and *N.J.S.A.* 18A:12-24.1(g). These provisions of the Code 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.

c. I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

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.

g. I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

### *Count 1*

In Count 1, Complainant asserts that Respondent violated *N.J.S.A.* 18A:12-24.1(a) when she took action to remove Complainant as the Monroe representative outside of a Board meeting because of the comments Complainant made in a social media post. Respondent counters that Complainant has not provided a copy of a final decision, as required to support a violation *N.J.S.A.* 18A:12-24.1(a).

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 she brought about changes through illegal or unethical procedures, when she 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 Count 1.

### ***Count 2***

In Count 2, Complainant contends that Respondent violated *N.J.S.A.* 18A:12-24.1(e) when she informed the public during a Board meeting that the Board would be sending a new representative from the Board to the Monroe Board meetings. Respondent counters that speaking as a Board member, at a public meeting, “regarding what she understood to be improper actions by a fellow Board member” is a matter of Board business and does not compromise the Board.

In accordance with *N.J.A.C.* 6A:28-6.4(a), 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 her duties such that, by its nature, had the potential to compromise the board.

Following its assessment, 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(e) was violated. Respondent is permitted to speak at a Board meeting regarding the Board matter of who should represent the District on the Monroe Board. Such a comment during a public meeting regarding her intentions or goals is not a personal promise, nor is it action beyond the scope of her duties that has the potential to compromise the Board. Respondent made the comment within the scope of her duties at a Board meeting, and an individual Board member’s position or opinion on a matter stated in public does not compromise the Board. Therefore, 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(e) in Count 2.

### ***Count 3***

In Count 3, Complainant asserts that Respondent violated *N.J.S.A.* 18A:12-24.1(a), *N.J.S.A.* 18A:12-24.1(c) and *N.J.S.A.* 18A:12-24.1(g) because she “has stood in accord with Mr. Torres’ constant violations of ethics and is now taking personal action on Mr. Torres’ behest to remove [Complainant] as the Monroe [r]epresentative.” Respondent counters that the actions of Mr. Torres that occurred in July 2023 are time barred. Additionally, Respondent argues that Complainant does not include a copy of a final decision, “there is nothing impermissible about the Board President speaking with other Board [m]embers about a controversial matter, so long as there was not a meeting in violation” of the OPMA, and the Complaint does not allege that Respondent disclosed confidential information, but rather only that Mr. Torres did so.

Pursuant to *N.J.A.C.* 6A:28-6.4(a), a violation(s) of *N.J.S.A.* 18A:12-24.1(a), *N.J.S.A.* 18A:12-24.1(c) and/or *N.J.S.A.* 18A:12-24.1(g) 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.

3. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(c) shall include evidence that Respondent took board action to effectuate policies and plans without consulting those affected by such policies and plans, or took action that was unrelated to Respondent's duty to (i) develop the general rules and principles that guide the management of the school district or charter school; (ii) formulate the programs and methods to effectuate the goals of the school district or charter school; or (iii) ascertain the value or liability of a policy.

7. Factual evidence of a violation of the confidentiality provision of *N.J.S.A.* 18A:12-24.1(g) shall include evidence that Respondent took action to make public, reveal or disclose information that was not public under any laws, regulations or court orders of this State, or information that was otherwise confidential in accordance with board policies, procedures or practices. Factual evidence that Respondent violated the inaccurate information provision of *N.J.S.A.* 18A:12-24.1(g) shall include evidence that substantiates the inaccuracy of the information provided by Respondent and evidence that establishes that the inaccuracy was other than reasonable mistake or personal opinion or was not attributable to developing circumstances.

Based on its 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), *N.J.S.A.* 18A:12-24.1(c) and/or *N.J.S.A.* 18A:12-24.1(g) were violated. At the outset, the Commission notes that while any allegations that occurred in July 2023 would be time-barred as they were filed outside the 180-day limitations period provided by *N.J.A.C.* 6A:28-6.5(a), those allegations did not involve any actions taken by Respondent, but rather only actions of Mr. Torres, who is not a respondent in this matter. With respect to *N.J.S.A.* 18A:12-24.1(a), 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 she brought about changes through illegal or unethical procedures, when she engaged in any of the acts/conduct set forth in the Complaint. As to *N.J.S.A.* 18A:12-24.1(c), Respondent's efforts to remove Complainant as the Monroe representative and/or her support of Mr. Torres is not Board action to effectuate policies or plans without consulting those affected or action unrelated to her duties. To the contrary, Respondent's concerns about Complainant serving as the Monroe representative fall within her duties as a Board member. Further, as Respondent argues, in order to remove Complainant from that position it would require a motion and a vote by the Board, and Complainant does not assert that she was removed from her position until such a vote occurred. Instead, Complainant argues that Respondent's discussion of her intent to remove Complainant from the position of Monroe representative resulted in a violation, but Respondent is permitted to discuss those concerns as a Board member. Finally, with regard to *N.J.S.A.* 18A:12-24.1(g), Complainant fails to allege any facts that Respondent disclosed confidential information or provided inaccurate information

outside of her opinion. Accordingly, and pursuant to *N.J.A.C.* 6A:28-9.7(b), the Commission dismisses the alleged violation(s) of *N.J.S.A.* 18A:12-24.1(a), *N.J.S.A.* 18A:12-24.1(c) and *N.J.S.A.* 18A:12-24.1(g) in Count 3.

#### **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 C34-24***

***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