

***Before the School Ethics Commission
OAL Docket No.: EEC-18003-19
SEC Docket No.: C36-19
Final Decision***

***In the Matter of Terry Tucker,
East Orange Board of Education, Essex County,
Respondent***

I. Procedural History

The above-captioned matter arises from a Complaint that was filed on May 17, 2019,¹ by Virginia Jeffries (Complainant), alleging that Terry Tucker (Respondent), a member and President of the East Orange Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* More specifically, the Complaint alleges that Respondent violated the “Resolution on Invoking the Doctrine of Necessity” in Count 1; *N.J.S.A.* 18A:12-24.1(a) of the Code of Ethics for School Board Members (Code) in Count 2; *N.J.S.A.* 18A:12-24.1(c) of the Code in Count 3; *N.J.S.A.* 18A:12-24.1(e) of the Code in Count 4; *N.J.S.A.* 18A:12-24.1(f) of the Code in Count 5; the “Resolution on Invoking the Doctrine of Necessity” in Count 6; *N.J.S.A.* 18A:12-24(a) in Count 7; and violated *N.J.S.A.* 18A:12-24(c) in Count 8.

On July 8, 2019, Respondent filed an Answer to Complaint (Answer), and also alleged that the Complaint was frivolous. On July 25, 2019, Complainant filed a response to the allegation of frivolous filing.

At its meeting on December 17, 2019, the Commission voted to find probable cause to credit the allegation that Respondent violated *N.J.S.A.* 18A:12-24.1(f) in Count 5 and *N.J.S.A.* 18A:12-24(c) in Count 8, but not to find probable cause for the remaining allegations in the Complaint. The Commission also voted to find the Complaint not frivolous, and to deny Respondent’s request for sanctions. Based on its finding of probable cause, the Commission voted to transmit the within matter to the Office of Administrative Law (OAL) for a hearing and, pursuant to *N.J.A.C.* 6A:28-10.7(b),² the attorney for the Commission (Petitioner) was charged with prosecuting the allegations in the Complaint.

Following cross-motions for summary decision at the OAL and oral argument on the motions, the Administrative Law Judge (ALJ) issued an Initial Decision on October 23, 2023, concluding Respondent violated *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24.1(f), and

¹ On May 17, 2019, Complainant filed a deficient Complaint; however, on June 3, 2019, 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.

² This citation refers to the regulation that was in effect at the time of the probable cause determination.

recommending a penalty of censure. Respondent filed exceptions to the Initial Decision, in accordance with *N.J.A.C.* 1:1-18.4, and Petitioner filed a reply thereto.

At its meeting on January 23, 2024, the Commission considered the full record in this matter. Thereafter, at its special meeting on February 27, 2024, the Commission voted to adopt the ALJ's legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24.1(f), and the recommended penalty of censure.

II. Initial Decision

By way of background, at the time of the Complaint, Respondent served as the Chief of Staff to Lieutenant Governor Sheila Oliver (Lieutenant Governor)³ and was employed by the State of New Jersey. *Initial Decision* at 4-5. Respondent previously served as the Lieutenant Governor's campaign manager, as well as the Lieutenant Governor's legislative aide when she served in the General Assembly. *Id.* at 5. Respondent had known the Lieutenant Governor for "approximately 20 years through various civic, community and political activities in East Orange and Essex County" and "had a professional relationship with the Lieutenant Governor and got along well personally with her." *Ibid.*

At a Board meeting on December 11, 2018, Respondent, along with other Board members, voted in favor of two Resolutions related to the renaming of a school building in honor of the Lieutenant Governor. *Ibid.* Specifically, the vote involved Resolution 1203-2018, to temporarily suspend Board Policy 7250 through and until the February 2019 meeting of the full Board. Resolution 7250 sets forth the procedural requirements for naming/renaming schools in the District, such as that the proposed name(s) must be free from political connotation, and that if the "name is a person, the person shall be deceased." *Ibid.*; *Initial Decision* at 10. Respondent also voted for Resolution 1204-2018, to change the name of a school in the District, from George Washington Carver Institute of Technology to the Sheila Y. Oliver Academy. *Id.* at 5. Respondent defended her actions in voting for the Resolutions; denied seeking any benefits for her vote; denied obtaining any professional, personal, or financial gain for herself, family members, or others, as she claimed that the actions taken by the Board were suggested by another Board member; and stated that she conferred with Board counsel prior to her vote and was advised that it was not inappropriate to vote on the two Resolutions. *Ibid.*

As to a violation of *N.J.S.A.* 18A12-24(c), the ALJ cites *Wyzykowski v. Rizas*, 132 N.J. 509 (1993) for the proposition that direct personal interest and indirect personal interest are conflicts of interest that require disqualification from voting. *Id.* at 9. The ALJ notes that, according to the record, Respondent and the Lieutenant Governor had "both a political and professional relationship" for 20 years and Respondent did not recuse herself from either Resolution. *Id.* at 10. The ALJ also cites to *In re Famularo, Asbury Park Board of Education, Monmouth County*, Docket No. C23-96 (February 24, 1998) to demonstrate that "[p]olitical relationships have been found to create a justifiable impression among the public that one's objectivity or independence of judgment could be impaired." *Id.* at 11. Specifically, the ALJ explained that the Commission found Famularo violated *N.J.S.A.* 18A12-24(c) when he moved

³ Lieutenant Governor Sheila Oliver passed away on August 1, 2023.

for and voted on the hiring of a principal for whom he had served as the unpaid treasurer during his campaign for city council. *Ibid.* In this matter, the ALJ maintains it is “undisputed” that Respondent had a “close business relationship” with the Lieutenant Governor, Respondent knew her for 20 years, and they “get along well personally.” *Id.* at 12. Moreover, Respondent indicates that their relationship had “spanned ‘various civic, community and political activities in East Orange and Essex County.’” *Ibid.*

With the above in mind, the ALJ asserts the political relationship was “significantly closer than the one at issue in *Famularo*,” and therefore, the ALJ concludes Respondent’s votes created a “justifiable impression of a conflict of interest due to her longstanding political relationship” with the Lieutenant Governor. *Ibid.* Moreover, the ALJ notes “employer-employee relationships, even those that don’t involve direct supervision, have been considered a conflicting interest because of the indirect financial involvement of the board member.” *Ibid.*

The ALJ compares this matter to *In re Carvalho, et al. v. Elizabeth Board of Education*, Docket Nos. C10-16 and C11-16 (Consolidated) (June 26, 2017), in which three Board members who voted to appoint a sitting city councilman to the position of Assistant Superintendent violated *N.J.S.A.* 18A12-24(c) because they were employed by the City of Elizabeth in various capacities. *Id.* at 12-13. The ALJ further concludes Respondent’s “longstanding employer-employee relationship ... also gives rise to a presumption of a conflicting interest.” *Id.* at 13. Despite Respondent’s argument that she is employed by the State, and not directly by the Lieutenant Governor, the ALJ finds she was appointed by the Lieutenant Governor as the Chief of Staff and her employment relationship with the Lieutenant Governor was “significantly closer than the relationships determined to be a conflicting interest in the *Carvalho* matter.” *Ibid.* The ALJ maintains that Respondent not only had a close professional relationship with the Lieutenant Governor, but also had a close political relationship as she directed the Lieutenant Governor’s campaign, and this relationship further supports the perception that Respondent’s personal involvement with the Lieutenant Governor “would be likely to impair her objectivity or independence of judgment” in the vote on the Resolutions, in violation of *N.J.S.A.* 18A12-24(c). *Ibid.*

As to a violation of *N.J.S.A.* 18A12-24.1(f), the ALJ concludes “there is no dispute that [Respondent’s] vote to name a school in honor of Lieutenant Governor Oliver [was] truly an honor for the Lieutenant Governor, the question remaining is did it confer a benefit to a ‘friend’ under the Code, and did Respondent use the ‘schools for personal gain.’” *Id.* at 16. The ALJ maintains she must consider whether Respondent’s vote on the Resolutions provided an “indirect political and personal benefit to [Respondent] given her past position as the Lieutenant Governor’s Chief of Staff.” *Ibid.*

The ALJ reaffirms that the record indicates Respondent’s relationship with the Lieutenant Governor went “far beyond that of a mere acquaintance or coworker.” *Id.* at 17. The ALJ elaborates that Respondent “did not simply know Lieutenant Governor Oliver, she worked with the Lieutenant Governor for twenty years and worked in a high-level position” in her administration, directly reporting to her. *Id.* at 17-18. Therefore, based on the record, the ALJ finds “Respondent reasonably could be perceived to have acted not just to benefit her political ally, but also to further her own interests, in the form of her political career.” *Id.* at 18. As such,

the ALJ concludes that Respondent's actions, namely voting to suspend a District Policy and voting to rename a school in the name of her immediate superior, while in her capacity as a Board member, were "effectuated in order to acquire a benefit for herself or for a friend," the Lieutenant Governor, in violation of *N.J.S.A.* 18A12-24.1(f). *Ibid.*

Despite Respondent's argument that she sought legal advice and Board counsel advised that her actions were not inappropriate, the ALJ finds that the advice of counsel "is only a defense as to penalty, not a defense to the violation" of the Act or Code itself. *Ibid.* However, in applying the standards set forth in *In re Zisa*, 385 N.J. Super. 188 (App. Div. 2006), the ALJ concludes that Respondent's defense of relying on the advice of counsel should be considered as mitigating factor when imposing a penalty. *Id.* at 21.

In deciding the appropriate penalty to recommend, the ALJ noted that the only mitigating factor present is that Respondent acted on the advice of the Board attorney, but that "[o]n balance, however, as the Board President, [Respondent] should have been aware of how her votes on the two [R]esolutions would appear to the public – specifically, they created the justifiable impression that the public trust was being violated." Finding this matter similar to *Famularo*, Docket No. C23-96 (February 24, 1998), the ALJ concludes that a penalty of censure is appropriate.

III. Exceptions

Respondent's Exceptions

As an initial matter, Respondent argues the record does not contain any evidence to support the ALJ's findings that Respondent's actions provided a benefit for a "friend." Respondent disputes the findings of fact, arguing that the record does not demonstrate that Respondent previously served as the Lieutenant Governor's campaign manager, that the two had a close relationship, that the political relationship was closer than the one in *Famularo*, that Respondent directly reported to the Lieutenant Governor, that Respondent worked with the Lieutenant Governor on a wide range of matters, or that their relationship goes beyond that of a mere acquaintance or coworker. Respondent further argues that the record does not contain any evidence to show that the relationship between Respondent and the Lieutenant Governor "was anything more than a professional employment relationship between the two." Moreover, Respondent contends the cases that the ALJ cited "are largely unavailing," namely because none of the relationships, such as a "close friend," a child, and a "political relationship," are present here. Respondent maintains that "perception is irrelevant," and the ALJ was required to find that Respondent "sought or obtained a benefit, not a showing that someone perceived her to have done so."

Next, Respondent asserts the ALJ's reliance on the legislative history in case law is "misplaced." Respondent further asserts that although "public belief or perception is part of the Legislative intent ... an actual violation of the Act or [Code] must still be proven." Respondent contends the ALJ found that "mere perception or reasonable belief is in and of itself sufficient to sustain a violation which would be a *de facto* rewriting of the statute." Respondent maintains "someone cannot be convicted simply upon public perception or impression."

Finally, Respondent argues “there are clearly significant disputed issues of material fact in this case . . . and it is in no way clear that the Commission is entitled to judgement as a matter of law.” Therefore, Respondent contends the ALJ’s decision must be reversed and remanded for a hearing, or in the alternative, Respondent’s Motion for Summary Decision should have been granted.

Petitioner’s Reply to Respondent’s Exceptions

Petitioner initially argues that by “failing to recuse herself from voting on [R]esolutions in which she had a personal involvement, Respondent violated” the Act and the Code, and therefore, the ALJ’s decision should be upheld.

Petitioner argues that a violation of *N.J.S.A.* 18A12-24(c), “turns not on the existence of a benefit sought or obtained as Respondent contends, but rather, on whether Respondent had an actual relationship that a reasonable member of the public ‘would expect to create a conflict of interest.’” Petitioner notes, “The measure of whether a public official has a conflict of interest ‘will always be whether the circumstances could reasonably be interpreted to show that they had the capacity to tempt the official to depart from his sworn public duty.’” Petitioner maintains, based on Respondent’s employment and personal relationship with the Lieutenant Governor, as well as her admitted conduct of voting to suspend Policy 7250 and voting to rename the school while failing to recuse, “there can be no doubt that Respondent violated *N.J.S.A.* 18A12-24(c).” According to Petitioner, “[i]t is reasonable to conclude that the suspension of Policy 7250 and the renaming of a school building in honor of” Lieutenant Governor Oliver “is an issue in which Respondent’s objectivity and independence of judgment was impaired” or “[a]t the very least, Respondent could be perceived to have been biased, as her then employer and long term personal and political affiliate or ally received the direct benefit of having a school building named after her.”

As to a violation of *N.J.S.A.* 18A12-24.1(f), Petitioner argues, this provision “can be established without proving a financial gain, or, indeed, receipt of any actual benefit at all.” Keeping the undisputed facts in mind, Petitioner argues Respondent “failed to ‘refuse to surrender [her] independent judgment[.]’ and more specifically, she completely failed to ‘refuse to . . . use the schools for personal gain or for the gain of friends.’” Petitioner contends the ALJ “properly concluded that Respondent reasonably could be perceived to have acted not just to benefit her political ally, but also to further her own interests, here, in the form of her political career.” Moreover, Petitioner asserts that whether Respondent’s “actions may not have resulted in financial or pecuniary gain is wholly irrelevant,” but rather, “what matters is the conduct occurred, that it was done in spite of a clear conflict of interest, and that any reasonable person could perceive those actions to be done for personal gain rather than the public good.” As such, Petitioner contends the ALJ’s determination that Respondent violated *N.J.S.A.* 18A12-24.1(f) should be upheld.

Finally, as to the penalty, Petitioner argues, Respondent “engaged in conduct that fell short of the standards required of board members,” and “she violated the public trust by using her official position with the [Board] to obtain a benefit for her friend, political ally, and

employer.” Therefore, Petitioner further argues, “a penalty of no less than censure is appropriate here.”

IV. Analysis

Upon a careful, thorough, and independent review of the record, the Commission agrees with the ALJ’s legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24.1(f), and recommends a penalty of censure.

N.J.S.A. 18A:12-24(c) prohibits a school official from acting in her official capacity in a matter where she, a member of her immediate family, or a business organization in which she has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair her objectivity or independence of judgment, and from acting in her official capacity in a matter where she or a member of her immediate family has a personal involvement that is or creates some benefit to her or a member of her immediate family.

The standard for evaluating whether *N.J.S.A.* 18A:12-24(c) has been violated are the “same standards set forth by our Supreme Court in [*Wyzykowski*, 132 N.J. 509 (1993).]” *Friends Retirement Concepts v. Board of Education of the Borough of Somerville*, 356 N.J. Super. 203, 214 (Law Div. 2002). In *Wyzykowski*, the Supreme Court recognized four situations involving conflicts of interest that require disqualification from voting, two of which are relevant to the instant matter:

“*Direct personal interest*,” when an official votes on a matter that benefits a blood relative or close friend in a non-financial way, but a matter of great importance, as in the case of a councilman’s mother being in the nursing home subject to the zoning issue; and . . . “*Indirect Personal Interest*,” when an official votes on a matter in which an individual’s judgment may be affected because of membership in some organization and a desire to help that organization further its policies.

[*Wyzykowski*, 132 N.J. at 525-26 (emphasis added) (citing Michael A. Pane, *Conflict of Interest: Sometimes a Confusing Maze, Part II, New Jersey Municipalities*, March 1980, at 8, 9.)]

Essentially, “[t]he question will always be whether the circumstances could reasonably be interpreted to show that they had the likely capacity to tempt the official to depart from his sworn public duty.” *Friends*, 356 N.J. Super. at 214.

The Commission has found, “In determining whether there is a violation of *N.J.S.A.* 18A:12-24(c), the determinative factor is the public’s perception and not the school official’s belief as to whether he could participate in a matter objectively.” *Famularo*, Docket No. C23-96 (February 24, 1998). The violation is “based on an actual relationship that a reasonable person would expect to create a conflict of interest.” *Ibid.* Further, “if the public would reasonably expect that the motion and vote were tainted by” a school official’s involvement, then the school

official should abstain from the discussion and vote. *Ibid.* In *Famularo*, applying the framework above, the Commission found that the Board member's motion and vote in favor of appointment of a principal when he had previously served as the principal's unpaid campaign treasurer during his city council election violated *N.J.S.A.* 18A:12-24(c) as the Board member's position as campaign treasurer "created a personal involvement that might reasonably be expected to impair his objectivity." *Famularo*, Docket No. C23-96.

The Commission finds Respondent acted in her official capacity when she voted at the December 11, 2018, Board meeting to suspend Board Policy 7250 and rename a school building in honor of the Lieutenant Governor. The Commission further finds that Respondent's employment relationship with the Lieutenant Governor, through working as her Chief of Staff, in and of itself, demonstrates that Respondent had a personal involvement in the matter. However, her personal involvement with the Lieutenant Governor went beyond her employment in the Lieutenant Governor's leadership team, but also included her participation on the Lieutenant Governor's campaign and her prior employment as the Lieutenant Governor's legislative aide when she was in the General Assembly. Respondent acknowledged that she has known the Lieutenant Governor for 20 years "through various civic, community and political activities in East Orange and Essex County" and they had "a professional relationship and [got] along well personally." Given the totality of their professional relationship, Respondent's two votes to facilitate the naming of a school in honor of the Lieutenant Governor created a benefit to Respondent, even indirectly by receiving the approval and/or gratitude of her supervisor, causing her supervisor to look on her favorably.

There is no question that Respondent had a conflict of interest that would require disqualification of voting, yet she voted on two Resolutions to facilitate the renaming of a school building in honor of her supervisor. At the very least, Respondent had an indirect personal interest in the outcome of the vote, as it benefited the Lieutenant Governor, who she has worked with over a period of years and for whom she served as Chief of Staff, a top position in her office. The public perception of the conflict of interest would be that Respondent could not act impartially, and that she would be tempted to vote in support of naming a building after her supervisor due to Respondent's position as her Chief of Staff. Similar to the Commission's finding in *Famularo*, where an individual's unpaid campaign treasurer voted to appoint him to a principal position, Respondent's position as the Lieutenant Governor's Chief of Staff also created a personal involvement that might reasonably be expected to impair her objectivity. As such, the Commission finds that Respondent's actions, in voting to suspend Board Policy 7250 and voting to rename a school building in honor of the Lieutenant Governor, violated *N.J.S.A.* 18A:12-24(c).

N.J.S.A. 18A:12-24.1(f) prohibits Board members from surrendering their independent judgment to special interest or partisan political groups or using the schools for personal gain or for the gain of friends. The Commission finds that Respondent used the schools to acquire both a personal benefit, as well as a benefit to a friend, the Lieutenant Governor. As stated by the ALJ, "Respondent reasonably could be perceived to have acted not just to benefit her political ally, but also to further her own interests, in the form of her political career." *Initial Decision* at 18. In voting for two Resolutions to facilitate the naming of a school building in honor of the Lieutenant Governor, Respondent used her position on the Board to publicly honor her

supervisor and secure an advantage for herself in the workplace. Additionally, given Respondent knew the Lieutenant Governor for 20 years “through various civic, community and political activities in East Orange and Essex County,” worked for her in several capacities including as Chief of Staff, and that they had “a professional relationship and [got] along well *personally*,” it is apparent that Respondent and the Lieutenant Governor had a friendly relationship. There is no doubt having a school building named after her was an honor, and therefore, a benefit, to the Lieutenant Governor. Respondent’s actions, in using her position as Board President to vote in favor of two Resolutions to facilitate the renaming of a building in honor of the Lieutenant Governor, was using the schools to acquire a benefit for a friend. Despite Respondent’s arguments, there is no requirement that Respondent and the Lieutenant Governor be “close friends,” but rather the Commissioner finds that a supervisory and/or friendly relationship is sufficient to establish that the Lieutenant Governor was a “friend” for purposes of finding a violation of the Code. As such, the Commission concurs with the ALJ that Respondent violated *N.J.S.A.* 18A:12-24.1(f) by using the schools to acquire a benefit both for herself and for a friend.

The Commission disagrees with Respondent that there are disputed material facts at issue in this matter. Respondent did not dispute that she previously served as the Lieutenant Governor’s campaign manager in the filings before the ALJ. Nevertheless, whether Respondent served as campaign manager is not material to the issues in this matter as the violations of the Act and Code did not depend on this fact alone, as Respondent’s position of Chief of Staff is sufficient to demonstrate a conflict of interest. Additionally, the other purported disputed facts can be inferred from the record. For example, it is obvious that the Lieutenant Governor’s Chief of Staff would report to the Lieutenant Governor. Whether Respondent disputes that she “directly” reported to the Lieutenant Governor is immaterial as there was clearly a supervisory relationship between them. Moreover, whether the relationship between Respondent and the Lieutenant Governor went beyond that of a mere acquaintance or coworker is deduced from Respondent’s description of the relationship, specifically that Respondent knew the Lieutenant Governor for 20 years “through various civic, community and political activities in East Orange and Essex County,” worked for her in several capacities including as Chief of Staff, and that they “have a professional relationship and get along well personally.” Accordingly, the Commission is not persuaded by Respondent’s exceptions.

With respect to a penalty, the Commission first notes that it agrees with the ALJ that Respondent’s reliance on Board counsel’s advice that her employment would not preclude her from voting on the Resolutions is not a defense to violations of the Act and Code, but rather may mitigate a penalty. The Commission further agrees with the ALJ that, considering the factors set forth in *In re Zisa*, 385 N.J. Super. 188 (App. Div. 2006), Respondent’s defense should be considered as a mitigating factor when imposing a penalty in this matter. However, even considering the applicable mitigating factor, the Commission recommends a penalty of censure for the violations of *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24.1(f). In *Famularo*, the Commission considered mitigating factors and nevertheless recommended a penalty of censure for a violation of *N.J.S.A.* 18A:12-24(c) in a similar matter in which Famularo voted to appoint an individual to a principal position when he had previously served as the campaign treasurer for the individual’s campaign for city council. *Famularo*, Docket No. C23-96. In that matter, the Commission indicated that “a political association, such as this one, that is greater than just a shared political affiliation, constitutes as serious a conflict as a relationship with a business

partner.” *Ibid.* The Commission recognized that mitigating factors existed, such as that the Commission had not previously ruled that a political association of this type constituted a conflict of interest and that Famularo was a new Board member. *Ibid.* Notwithstanding, the Commission found that as “[t]he nature of the conflict, here political cronyism, is surely one that the Legislature drafted the School Ethics Act to eliminate,” Famularo’s conduct warranted the increased penalty of censure. *Ibid.*

Here, the Commission finds the political association, in addition to the supervisory relationship between the Lieutenant Governor and Respondent, presented a clear conflict of interest and a serious violation of the public trust. As stated by the ALJ, Respondent “should have been aware of how her votes on the two [R]esolutions would appear to the public,” specifically that they “created a justifiable impression that the public trust was being violated.” Respondent participated in two votes that not only directly related to her supervisor, but bestowed an honor on her supervisor. Board members should be aware that they cannot vote on matters in which they have a conflict of interest, and the conflict of interest in this matter is obvious. It is unclear why Board counsel would opine that such a relationship does not warrant disqualification on voting, but the Commission nevertheless notes that Respondent, as Board President, who is required to undergo ethics training, is obligated to recognize her own conflicts and recuse herself when a conflict exists. As in *Famularo*, where the severity of political cronyism balanced with the mitigating factors still resulted in a penalty of censure, the Commission considers the one mitigating factor in this matter of relying on the advice of counsel, but finds that given the very serious nature of Respondent’s violations of both the Act and the Code, as well as that Respondent was not only a Board member, but had been elected into the leadership role of Board President, a penalty of censure is warranted for the violations of *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24.1(f).

V. Decision

For the aforementioned reasons, the Commission adopts the ALJ’s legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24.1(f), as well as the recommended penalty of censure.

Pursuant to *N.J.S.A.* 18A:12-29(c), this decision shall be forwarded to the Commissioner of Education for review of the Commission’s recommended penalty. The parties may either: 1) file exceptions to the recommended sanction; 2) file an appeal of the Commission’s finding of a violation; or 3) file both exceptions to the recommended sanction together with an appeal of the finding of a violation.

Parties taking exception to the recommended sanction of the Commission but *not disputing* the Commission’s finding of a violation may file, **within thirteen (13) days** from the date the Commission’s decision is forwarded to the Commissioner, written exceptions regarding the recommended penalty to the Commissioner. The forwarding date shall be the mailing date to the parties, as indicated below. Such exceptions must be forwarded to: Commissioner of Education, c/o Bureau of Controversies and Disputes, P.O. Box 500, Trenton, New Jersey 08625, marked “Attention: Comments on Ethics Commission Sanction,” as well as to

(ControversiesDisputesFilings@doe.nj.gov). A copy must also be sent to the Commission (school.ethics@doe.nj.gov) and all other parties.

Parties seeking to appeal the Commission's finding of violation *must* file an appeal pursuant to the standards set forth at *N.J.A.C. 6A:4:1 et seq.* **within thirty (30) days** of the filing date of the decision from which the appeal is taken. The filing date shall be three (3) days after the date of mailing to the parties, as shown below. In such cases, the Commissioner's review of the Commission's recommended sanction will be deferred and incorporated into the Commissioner's review of the finding of violation on appeal. Where a notice of appeal has been filed on or before the due date for exceptions to the Commission's recommended sanction (thirteen (13) days from the date the decision is mailed by the Commission), exceptions need not be filed by that date, but may be incorporated into the appellant's briefs on appeal.

Robert W. Bender, Chairperson

Mailing Date: February 27, 2024

***Resolution Adopting Decision
in Connection with C36-19***

Whereas, at its meeting on December 17, 2019, 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 October 23, 2023; and

Whereas, the ALJ found that Respondent violated *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24.1(f), and recommended a penalty of censure; and

Whereas, Respondent filed exceptions to the Initial Decision and Petitioner filed a reply; and

Whereas, at its meeting on January 23, 2024, the Commission reviewed the record in this matter, discussed adopting the ALJ's legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24.1(f), and recommending a penalty of censure; and

Whereas, at its special meeting on February 27, 2024, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on January 23, 2024; 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 special meeting on February 27, 2024.

Brigid C. Martens, Director
School Ethics Commission