

***Before the School Ethics Commission
OAL Docket No.: EEC-08965-23
SEC Docket No.: C115-22
Final Decision***

***In the Matter of Kate Rattner,
Monroe Township Board of Education, Middlesex County,
Respondent***

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on December 21, 2022,¹ by Christine Skurbe (Complainant), alleging that Kate Rattner (Respondent), a member of the Monroe Township Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* More specifically, the Complaint alleged that Respondent violated *N.J.S.A.* 18A:12-24(b) (Count 2), as well as *N.J.S.A.* 18A:12-24.1(c) (in Count 1, Count 3, and Count 10); *N.J.S.A.* 18A:12-24.1(d) (in Count 1, Count 4, Count 9, and Count 10); *N.J.S.A.* 18A:12-24.1(e) (in Count 1 and Count 5); *N.J.S.A.* 18A:12-24.1(g) (in Count 8); and *N.J.S.A.* 18A:12-24.1(i) (in Counts 6-7) of the Code of Ethics for School Board Members (Code).

On January 25, 2023, Respondent filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and also alleged that the Complaint is frivolous. On February 27, 2023, Complainant filed a response to the Motion to Dismiss and allegation of frivolous filing. Thereafter, the parties were notified by correspondence dated March 13, 2023, that the above-captioned matter would be discussed by the Commission at its meeting on March 21, 2023, in order to make a determination regarding the Motion to Dismiss and the allegation of frivolous filing.

Following its discussion on March 21, 2023, the Commission adopted a decision at its meeting on April 25, 2023, finding that the claims in Counts 1-7 were untimely filed; granting the Motion to Dismiss as to the allegations in Count 9; and denying the Motion to Dismiss as to the allegations in Count 8 and Count 10. The Commission also adopted a decision finding the Complaint not frivolous, and denying Respondent's request for sanctions. Based on its decision, the Commission also directed Respondent to file an Answer to Complaint (Answer) as to the remaining allegations in Count 8 (*N.J.S.A.* 18A:12-24.1(g)) and Count 10 (*N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24.1(c), and *N.J.S.A.* 18A:12-24.1(d)), which she did on May 30, 2023.

Thereafter, the parties were notified by correspondence dated July 18, 2023, that the above-captioned matter would be placed on the Commission's agenda for its meeting on July 25, 2023, in order to make a determination regarding probable cause. At its meeting on July 25,

¹ On December 1, 2022, Complainant filed a deficient Complaint; however, on December 2, 2022, 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.

2023, the Commission considered the filings and, at its meeting on August 22, 2023, the Commission voted to find probable cause does not exist for the alleged violations of *N.J.S.A.* 18A:12-24.1(g) in Count 8 or *N.J.S.A.* 18A:12-24.1(c) in Count 10, but to find probable cause for the alleged violations of *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24.1(d) in Count 10. 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.

At OAL, the parties agreed to the stipulated facts and filed cross-motions for summary decision. The record closed on April 9, 2025, and the Administrative Law Judge (ALJ) issued an Initial Decision on May 15, 2025, concluding Respondent did not violate *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24.1(d), and dismissing the matter. Thereafter, Petitioner filed exceptions to the Initial Decision, in accordance with *N.J.A.C.* 1:1-18.4, and Respondent filed a reply thereto.

At its meeting on July 22, 2025, the Commission considered the full record in this matter. Thereafter, at its meeting on August 19, 2025, the Commission voted to adopt the ALJ's findings of fact, reject the legal conclusions to find that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24.1(d), and recommended that a penalty of reprimand be imposed.

II. Initial Decision

The ALJ made the following findings of fact based on the witness testimony and evidentiary documentation:

- Respondent's spouse was employed by the District as a music teacher since 2008.
- At a Board meeting on September 21, 2022, the Board voted to approve Respondent's spouse's appointment for an extra-duty assignment as the band director for the school musical for which he received a stipend.
- On December 13, 2022, Respondent's spouse resigned from his stipend position as the musical's band director.
- In an email on December 13, 2022, the Board was informed that additional action items were being added to the Board's December 14, 2022, meeting agenda, namely Respondent's spouse's resignation of his stipend position NOT his full-time teaching position.
- The agenda noted, "It is recommended by the Superintendent of Schools that the Board accept the resignation of [Respondent's spouse] as . . . assistant music director . . . for the 2022-2023 school year."
- Also on December 13, 2022, Respondent received numerous messages from community members expressing concern that her husband was resigning from his full-time position after the agenda was published.
- On December 14, 2022, Respondent sent an email to the Superintendent's assistant and copied the Superintendent, the Board President and the Assistant Superintendent "recommend[ing]" that they revise the agenda because the community was concerned that her spouse was forced to resign, and they were going to attend the Board meeting in support of Respondent's spouse.
- Respondent also sent her spouse's supervisor an email notifying him of the situation in case he received any communications from concerned community members.

- Respondent did not copy the Board Secretary/Business Administrator; however, the Superintendent's assistant did.

Initial Decision at 2-6.

Based on the findings of fact, the ALJ maintains a “fair reading of the December 14, 2022, email . . . makes clear that it was only a ‘friendly recommendation’ and intended to advise as to an obvious meeting agenda error.” *Id.* at 10. The ALJ further maintains that it “would have been better practice for [Respondent] to take no action in a matter from which she had to recuse herself or, alternatively, simply allow her spouse to alert school officials of the error.” *Ibid.* Consequently, the ALJ notes Respondent's actions supported the finding of probable cause. However, the ALJ maintains he “does not accept the argument that the December 14, 2022, email created a public impression that [Respondent] was using her position to secure an unwarranted benefit.” *Ibid.* The ALJ further notes a “fair reading” of Respondent's email reveals that Respondent was “simply attempting to correct an error in the meeting agenda.” *Ibid.* Moreover, the email did not direct or order the administrative staff to take any action, and therefore, the ALJ concludes that Petitioner failed to meet its burden to prove a violation of *N.J.S.A* 18A:12-24(b).

Next, regarding a violation of *N.J.S.A* 18A:12-24.1(d), the ALJ compared the conduct of Respondent to that of the respondent in In Re Hankerson, Woodbine Board of Education, C36-02 (June 24, 2003), where that respondent gave orders to a district employee to perform tasks for her, had “Rice notices” sent to employees proposing the termination of two employees without consulting the superintendent, and interviewed and hired a teacher and a nurse for the school year without the superintendent's recommendation in violation of the Act. The ALJ stated that Hankerson's behavior went “far and beyond what a board member is allowed to do” but it does not compare to Respondent's “mere suggestion to District staff that they should perform certain administrative tasks.” *Id.* at 12. The ALJ reiterates that it would have been better practice for Respondent “to take no action”; however, “her actions do not support the conclusion that she was attempting to direct staff members to perform certain administrative tasks,” and therefore, the ALJ concludes that Petitioner has failed to meet its burden to demonstrate that Respondent violated *N.J.S.A* 18A:12-24.1(d). *Ibid.*

Finally, the ALJ **orders** that Petitioner's motion for summary decision is denied and Respondent's cross-motion for summary decision is granted, and dismisses the matter.

III. Exceptions

Petitioner's Exceptions

Petitioner notes despite the ALJ's findings that “it would have been better practice” if Respondent did not take any action, that Respondent knew she needed to recuse herself from the matter and that Respondent “failed to recognize that this conflict meant she should not be involved at all, the ALJ still rejected Petitioner's argument “that Respondent's attempt to secure a more accurate description of an already published agenda item concerning her husband's resignation ‘created a public impression that [Respondent] was using her position to secure an unwarranted benefit[]’ for her husband, in violation of *N.J.S.A.* 18A:12-24(b).” Petitioner argues

that neither the Act nor the Commission requires that a board member actually succeed in securing unwarranted benefits for themselves, family members, or others in order to sustain a violation of *N.J.S.A.* 18A:12-24(b). Petitioner notes Respondent knew that she was conflicted from matters related to her husband and the ALJ noted that Respondent “failed to recognize that this conflict meant she should not be involved at all,” and as a result of this “failure” Petitioner asserts Respondent “attempted to secure a more favorable description of an already published agenda item that improperly reflected the teaching position from which her husband was resigning, by sending an email from her Board account to three District administrative employees suggesting that they ‘correct [the] obvious error’ in the agendas item’s description.” Petitioner notes Respondent’s email “contradicts” the ALJ’s finding; therefore, Petitioner asserts the Commission “should find that the pressure caused to the District’s administrative staff by Respondent’s suggestion to resolve a personnel matter involving her husband,” an advantage not available to other District staff, created a justifiable impression among the public that Respondent used her position for the benefit of others, in violation of *N.J.S.A.* 18A:12-24(b).

As to the ALJ’s dismissal of *N.J.S.A.* 18A:12-24.1(d), Petitioner provides despite the ALJ’s acknowledgement that Respondent “understood that the duty to prepare agendas . . . belonged to the administrative staff,” the ALJ still determined that Respondent did not violate *N.J.S.A.* 18A:12-24.1(d) because she was simply “alerting” the staff of the error, not directing them to take any particular action. However, Petitioner argues that it cited to three other cases, aside from Hankerson, and the ALJ only referenced Hankerson. According to Petitioner, taking into consideration the three additional cited decisions, “Respondent’s advisement or suggestion to the District’s administrative staff, in her capacity as a Board member, that they perform certain administrative tasks affecting her spouse” constituted a violation of *N.J.S.A.* 18A:12-24.1(d).

Finally, as to penalty, Petitioner asserts Respondent involved herself in administrative functions relating to her spouse’s resignation from a stipend position, despite her long experience as a Board member and her clear and public understanding that she was conflicted from participating in such matters, and therefore, Petitioner recommends that the Commission impose no less than a censure.

Respondent’s Reply to Petitioner’s Exceptions

Respondent maintains the Court “appropriately determined that [Respondent] did not violate” *N.J.S.A.* 18A:12-24(b) and/or *N.J.S.A.* 18A:12-24.1(d). Respondent reaffirms the ALJ’s conclusion that Petitioner failed to demonstrate that Respondent secured an “unwarranted benefit” or that a reasonable member of the public would perceive that she did. Further, Respondent notes the Court also correctly determined that her email to the administration “as simply attempting to correct and [(sic)] error in the meeting agenda.” Respondent reaffirms that her email acknowledged that she would be recusing from the matter and further wanted to make a suggestion that the present wording of the item was causing concern among the public. According to Respondent, a reasonable person would not believe that a “Board member’s forwarding information that complaints had been sent to her onto the Superintendent and Board President somehow constitutes a conflict of interest.” Respondent contends that the ALJ “correctly determined that no reasonable person could find that concerns regarding the confusing

wording of an Agenda item for a resignation of a stipend position constitutes an unwarranted privilege or advantage.” Moreover, Respondent’s spouse was not seeking employment, but rather resigning from a stipend position from the District. Respondent argues that although she contacted school personnel, they were the chief administrators, not “lower-level employees or building level administrators for their assistance with an issue.” Respondent further argues Petitioner “misrepresented that [Respondent] was ‘using her Board position as a means to resolve personnel matters involving her husband.’” On the contrary, Respondent provides “[t]here were no personnel issues to resolve: the issue was the wording of the Board Agenda and the public’s reaction to that, which is a matter completely within the responsibilities of the Board, not the actual employment status of her husband.”

As to a violation of *N.J.S.A.* 18A:12-24.1(d), Respondent once again asserts the ALJ correctly determined that a violation did not exist. Respondent further asserts “a suggestion or recommendation as to the language used in [the] agenda is not administering to any function of the District.” Respondent defends she had “received concerns about a misunderstanding with the wording of an Agenda action item related to her husband’s resignation from a position within the District and advised the Superintendent that the public was aware of such issue.” Respondent maintains as such, she did not direct staff, and therefore, as the ALJ found, Respondent did not violate *N.J.S.A.* 18A:12-24.1(d).

IV. Analysis

Upon a careful, thorough, and independent review of the record, the Commission adopts the ALJ’s findings of fact, rejects the ALJ’s legal conclusions to find that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24.1(d), and recommends that a penalty of reprimand be imposed.

As an initial matter, the Commission notes that, pursuant to *N.J.S.A.* 18A:12-23, “member of immediate family” is defined as “the spouse or dependent child of a school official residing in the same household,” and “relative” is defined as “the spouse, natural or adopted child, parent, or sibling of a school official.” Therefore, Respondent’s spouse is an immediate family member under the Act. In addition, neither the provisions of *N.J.S.A.* 18A:12-24 (“Prohibited acts”) nor the provisions of *N.J.S.A.* 18A:12-24.1 (“Code of Ethics for School Board Members”) specifically refer to the “relative” of a school official. Instead, the “relatives” of a school official fall within the umbrella of “others” set forth in *N.J.S.A.* 18A:12-24(b). As explained in *Advisory Opinion 24-17* (A24-17), “[a]lthough ‘others’ is not defined by the Act, **any individual** can be an ‘other,’ including people that fall within the definition of ‘relative’ as set forth in *N.J.S.A.* 18A:12-23, and those that fall within the broader definition of ‘relative’ that is required to be incorporated in district nepotism policies.” See, *N.J.A.C.* 6A:23A-1.2; *N.J.A.C.* 6A:23A-6.2. For these “others,” a school official is prohibited from using her official position to secure an unwarranted privilege, advantage or employment.

The Commission has held before that a school official who has an immediate family member employed by the District must always abstain from involvement **in any and all matters** pertaining to the family member, or any person who has supervisory authority over the family member as it will create a justifiable impression among the public that the school official is using

her position to obtain an unwarranted privilege, advantage, or employment for herself, an immediate family member, or others. *See I/M/O Deborah Anderson, High Point Regional Board of Education, Sussex County*, Docket No. C45-19, August 30, 2021; *Advisory Opinion—A24-17* and *Advisory Opinion A07-18*.

Therefore, the Commission disagrees with the ALJ that Respondent acted appropriately in this situation. *N.J.S.A.* 18A:12-24(b) prohibits board members from using or attempting to use their official position to secure an unwarranted privilege, advantage, or employment for themselves, members of their immediate family, or others. While the ALJ phrased Respondent's actions as "simply attempting to correct an error in the meeting agenda," recusal in a matter means recusal at all parts of a lifecycle of a matter. *ID.* at 10. Respondent should not be contacting the Superintendent and Board President about any matter involving her spouse, even if she believes it to be minor. Respondent also should not be contacting her spouse's supervisor about matters related to her spouse. As a matter of note, Respondent could have referred all calls from the public to the Superintendent to allow for the proper notification and handling of the agenda item. Instead, Respondent chose to contact the administration herself. Therefore, the Commission finds that Respondent's e-mail was an attempt to use her official position to secure an unwarranted privilege or advantage for herself and her spouse. Accordingly, the Commission finds Respondent violated *N.J.S.A.* 18A:12-24.1(b).

As for *N.J.S.A.* 18A:12-24.1(d), the ALJ found that "it [was] clear from the email that [Respondent] was acting as an individual Board member and alerting the administrative staff of an error in the meeting agenda" but found that he did "not support the conclusion that she was attempting to direct staff members to perform certain administrative tasks" when she sent the email. *ID.* at 11-12. The Commission respectfully disagrees. *N.J.S.A.* 18A:12-24.1(d) provides that board members will not administer the schools, but together with their fellow board members, see that they are well run. As Respondent was conflicted from any and all matters related to her spouse's employment, she should not have been involved in any matter related to her spouse's employment, including sending an email from her Board account, advising personnel about the wording of the Board's agenda regarding her spouse's resignation. Staff could have reasonably interpreted her email as an attempt to instruct them on how to write the agenda and, thus, how to do their jobs. Moreover, the agenda item was inconsequential and its "correction" unnecessary for the proper running of the Board, and therefore, did not warrant the attention that Respondent gave it. Therefore, the Commission finds Respondent violated *N.J.S.A.* 18A:12-24.1(d).

With respect to a penalty, the Commission finds that a penalty of reprimand is appropriate in this matter. Respondent chose to insert herself into a situation where she knew that she was recused. However, as this was Respondent's first infraction, the Commission finds that a reprimand is appropriate.

V. Decision

For the aforementioned reasons, the Commission adopts the ALJ's findings of fact, but rejects the ALJ's legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24.1(d) to find that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.*

18A:12-24.1(d). As such, the Commission modifies the Initial Decision and recommends a penalty of reprimand.

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: August 19, 2025

***Resolution Adopting Decision
in Connection with C115-22***

Whereas, at its meeting on August 22, 2023, 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 May 15, 2025; and

Whereas, the ALJ found that Respondent did not violate *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24.1(d) and dismissed the matter; and

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

Whereas, at its meeting on July 22, 2025, the Commission reviewed the record in this matter, discussed adopting the ALJ's findings of fact, rejecting the ALJ's legal conclusions to find that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24.1(d), and recommending a penalty of reprimand be imposed; and

Whereas, at its meeting on August 19, 2025, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on July 22, 2025; 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 August 19, 2025.

Dana C. Jones
School Ethics Commission