

Before the School Ethics Commission
OAL Docket No.: EEC-12560-24
SEC Docket No.: C15-24
Final Decision

In the Matter of Michael Harris
Southampton Board of Education, Burlington County,
Respondent

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on February 9, 2024, by Melissa Walker (Complainant), alleging that Michael L. Harris (Respondent), Interim Superintendent of the Southampton 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(b)* (Count 1), *N.J.S.A. 18A:12-24(c)* (Count 2) and *N.J.S.A. 18A:12-24(d)* (Count 3). On February 26, 2024, Respondent filed a Written Statement, and also alleged that the Complaint is frivolous. On March 18, 2024, Complainant filed a response to the allegation of frivolous filing.

At its meeting on August 27, 2024, the Commission adopted a decision finding that there are sufficient facts and circumstances pled in the Complaint and in the Written Statement to lead a reasonable person to believe that *N.J.S.A. 18A:12-24(b)* and *N.J.S.A. 18A:12-24(c)* were violated, but insufficient facts and circumstances to lead a reasonable person to believe that *N.J.S.A. 18A:12-24(d)* was violated. The Commission also adopted a decision finding the Complaint not frivolous, and denying Respondent's request for sanctions. Based on its finding of probable cause, the Commission voted to transmit the remaining allegations in the above-captioned matter to the Office of Administrative Law (OAL) for a hearing.

At the OAL, on March 7, 2025, Respondent filed a motion for summary decision. On April 17, 2025, the Commission filed its opposition and a cross-motion for summary decision. Respondent submitted a reply and opposition brief on May 2, 2025. The record closed on May 2, 2025, and the Administrative Law Judge (ALJ) issued an Initial Decision on June 12, 2025, concluding Respondent violated *N.J.S.A. 18A:12-24(b)* and *N.J.S.A. 18A:12-24(c)* and recommending a penalty of reprimand. Petitioner and Respondent both filed exceptions to the Initial Decision, in accordance with *N.J.A.C. 1:1-18.4*, and Petitioner filed a reply to Respondent's exceptions.

At its meeting on August 19, 2025, the Commission considered the full record in this matter. Thereafter, at its meeting on September 23, 2025, the Commission voted to adopt the ALJ's findings of fact and the legal conclusion that Respondent violated *N.J.S.A. 18A:12-24(b)* and *N.J.S.A. 18A:12-24(c)*, but voted to modify the recommended penalty to a censure.

II. Initial Decision

The ALJ issued the following findings of fact:

- On November 1, 2023, Respondent was appointed as Interim Superintendent of the Southampton Township School District (District).
- During his interview for that position, Respondent disclosed that his daughter was employed by the District.
- Before becoming the Interim Superintendent, Respondent served as an administrator in the District for 26 years.
- At the time of Respondent's hiring as the Interim Superintendent, the District was negotiating a labor contract with the Southampton Township Administration and Supervisors Association (STASA).
- The District began negotiating with the STASA in May 2023 and continued once Respondent was hired until a tentative agreement was reached in December 2023.
- Respondent stated that his role in negotiations was "to serve in an advisory capacity for the [Board's] Negotiation Team."
- On November 7, 2023, Respondent participated in a Personnel and Student Services Committee meeting where topics discussed included a tentative Memorandum of Agreement (MOA) between the STASA and the District.
- Once the tentative agreement was reached and presented to the Board, Respondent sent an email to the Board, which stated:

"This afternoon, I drafted the MOA for our negotiations team and the administrators. It has been sent to them for review and if acceptable it will be signed. Our remaining task is to create a salary guide since none has existed since the end of the 2020-2021 school year."

- The STASA accepted the MOA pending the salary guide, and on January 23, 2024, the Board voted to approve the final agreement at its regular meeting.
- As part of the agreement, Respondent's daughter's supervisor received a pay increase and a stipend of \$4,000.00

Initial Decision at 3-4.

The ALJ noted that "there is no dispute that [Respondent's] daughter was an employee of the District while [Respondent] served as the interim superintendent." *Id.* at 9. The ALJ acknowledged that while "there may be a dispute about the extent to which [Respondent] participated in the negotiation process with [the] STASA," there was "no dispute that he did participate in the process and created the public impression of doing so." *Ibid.* The ALJ noted that Respondent stated in his certification that he "served in an advisory capacity to the negotiations team." *Ibid.* Finally, the ALJ noted that Respondent does not "dispute the authenticity of the emails he sent, stating that he was working on the salary guide and MOA." *Ibid.* Therefore, the ALJ concluded that Respondent violated *N.J.S.A.* 18A:12-24(b) by "participating in any matters that touched on his daughter's employment, including labor negotiations with the union of the administrator who supervised his daughter." *Ibid.*

Regarding a violation of *N.J.S.A.* 18A:12-24(c), the ALJ found that “the circumstances surrounding [Respondent’s] position would lead a reasonable member of the public to expect that he had a conflict of interest.” *Id.* at 10. The ALJ reasoned that, as in a previous case before the Commission, a reasonable public member could believe that Respondent’s “judgment of his daughter’s supervisor could not be objective or independent of his relationship to his daughter, who could be affected by employment decisions about her supervisor.” *Ibid.* The ALJ also noted that Respondent “does not dispute that his daughter’s supervisor received a stipend and pay increase as part of the negotiations process in which he participated.” *Ibid.* Therefore, the ALJ concluded that Respondent violated *N.J.S.A.* 18A:12-24(c).

As to penalty, as Respondent is no longer employed as a Superintendent, the ALJ noted that only reprimand or censure are available. The ALJ found that, considering Respondent’s lack of history of violations of the Act, a reprimand was appropriate. *Id.* at 12.

III. Exceptions

Respondent’s Exceptions

Respondent takes exception with the penalty because the allegations made by Complainant, as well as the Commission’s finding of probable cause, do not “match those on which the violation was based by the OAL.” More specifically, Respondent argues that Complainant asserted that Respondent violated *N.J.S.A.* 18A:12-24(b) (Count 1) “because he removed the [BA] from the district’s negotiating committee, took over as the administrative ‘representative,’ and proceeded to negotiate the contract with the [STASA] whose member included the [Director] and the supervisor of Respondent’s daughter.” Respondent further argues Complainant contended that Respondent violated *N.J.S.A.* 18A:12-24(c) (Count 2) because he “negotiated the Director’s contract to include a provision under which she alone would receive a \$4,000 stipend for three years.” However, during discovery, Respondent maintains these allegations could not be corroborated, and according to Respondent, Petitioner went “in search of a violation and changed the factual bases [(sic)] for the violation beyond those alleged in the [C]omplaint or for which the Commission found probable cause.” Respondent further maintains Petitioner’s “new theory was that Respondent violated the [Act] because he was present at two meetings where the tentative agreement was discussed and drafted a new salary guide for the agreement.”

Respondent provides that the negotiation committee “removed the [BA] from the negotiations” at their request because, according to the committee, “we did not feel her negotiating goals and tactics were aligned with those of the committee, which caused the negotiations to reach an impasse.” Respondent further provides that the negotiating committee and the STASA “suggested a one-time stipend as a way to boost the salary for the [Director’s] position,” because both sides agreed the salary needed to be increased. According to Respondent, he was “neither a member nor the administrative liaison for the District’s negotiating committee.”

Respondent asserts that “while [C]omplainant alleged wrongdoing, she was not there, she was not involved with, and she had no personal knowledge about the negotiations.”

In sum, Respondent argues witness testimony proved that Complainant was “wrong in her assertion that Respondent removed the [BA], wrong that Respondent created the ‘stipend’ for the [Director], wrong that he ‘negotiated’ the STASA agreement, and wrong that he coaxed and directed the process to completion.” Despite this, Petitioner “craft[ed] its own claim” alleging that Respondent violated the Act because “he prepared a draft agreement memorializing the terms that were negotiated and the salary guide and was present at two meeting where the tentative agreement was discussed”; and those are the allegations for which the ALJ found a violation. Respondent reiterates that neither the Complaint nor the probable cause notice included the allegations that Respondent “drafted the MOA or the salary guide or was present at a [Board] meeting where the agreement was discussed.” Respondent notes he was the Superintendent at the time, and realistically, the Superintendent “was going to have to be made aware of what was negotiated if [for] no other reason so that it could be implemented. But there is absolutely no evidence that Respondent negotiated, dictated, or influenced the terms of the agreement.” Finally, Respondent reaffirms the allegations that he was ultimately found to have violated were not part of the Complaint and as such they cannot “be used to bootstrap a violation and impose a penalty against Respondent.”

Petitioner’s Exceptions

Petitioner contends that the ALJ accurately concluded that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c); however, Petitioner argues the penalty should be modified from reprimand to censure.

Therefore, as to the penalty, Petitioner argues that instead of focusing on Respondent’s “decades of experience as an administrator,” the ALJ improperly focused on Respondent’s “lack of prior reprimands.” Petitioner notes Respondent was an experienced administrator, knew about his conflict of interest and was aware of the seriousness of the offenses, and therefore, the ALJ should have issued a censure for the seriousness of the offense, as well as precedent based on prior decisions.

Petitioner’s Reply to Respondent’s Exceptions

As an initial matter, Petitioner argues the ALJ’s conclusion that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c) should be affirmed; however, Petitioner asserts the penalty should be modified to a censure.

According to Petitioner, Respondent’s “exceptions are expressly limited to the penalty and the scope of the probable cause notice.” Petitioner notes that Respondent does not object to the ALJ’s findings or conclusions, and therefore, there is “no question” that Respondent violated the Act. Petitioner further notes the ALJ’s findings were supported by the record.

More specifically, and as to a violation of *N.J.S.A.* 18A:12-24(b), Petitioner contends the ALJ correctly determined that “the relevant inquiry is not if [Respondent] intended to secure an unwarranted benefit for him or his [daughter], but if a reasonable person could infer that was the reason for his conduct.” Per Petitioner, the ALJ “used relevant case law” and reviewed the Commission’s public advisory opinions, and therefore, accurately concluded that Respondent

violated *N.J.S.A.* 18A:12-24(b) “by participating on matters that touched upon his daughter’s employment, including negotiations with [the] STASA, to which his daughter’s supervisor (Walsh) belonged as a member.”

Regarding a violation of *N.J.S.A.* 18A:12-24(c), Petitioner again notes the ALJ’s findings and conclusions were accurate. Petitioner maintains the ALJ “based her conclusions upon the undisputed facts that [Respondent’s daughter’s] supervisor received a stipend and pay increase as part of the STASA negotiations and that he participated in those negotiations to an extent.” Again, the ALJ appropriately found that Respondent’s “circumstances would lead a reasonable member of the public to expect he had a conflict of interest.”

Petitioner asserts the Initial Decision did not exceed the scope of the Commission’s probable cause notice. Petitioner argues “the SEC did not conjure up its own complaint,” but rather provided “undisputed” evidence, which the ALJ properly applied and found that Respondent violated the Act. Moreover, Petitioner notes the “ALJ’s conclusions . . . are supported by controlling law and falls squarely within the scope of the complaint and the SEC’s Decision on Probable Cause.”

Finally, Petitioner asserts Respondent does not present an argument as to penalty and instead notes he should not get a penalty because the ALJ’s finding of violations were not alleged in the Complaint. According to Petitioner, the ALJ “properly concluded [Respondent] violated two provisions of the Act,” and as such, asserts the ALJ’s recommended penalty of reprimand should be modified to a censure.

IV. Analysis

Upon a careful, thorough, and independent review of the record, the Commission agrees with the ALJ’s findings of fact and the legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c), but modifies the recommended penalty of reprimand to censure.

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 child is, at the very least, a relative 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 his official position to secure an unwarranted privilege, advantage or employment.

In recognition of the fact that the employment of a school official's "relative" can create a clear and palpable conflict of interest, *Advisory Opinion A24-17* (A24-17) clearly explained, based on the Commission's previously issued advisory opinions and precedent, that "[a] Board member with a relative who is employed in the District, cannot participate in any aspect of negotiations, including the vote on the collective negotiations agreement following attainment of the memorandum of the agreement," and "a Board member who has a relative ... employed in the District would also be prohibited from participating in any and all issues related to the superintendent, including the search, contract approval, and evaluation of performance." While this advice applied to Board members, the same rationale applies to Superintendents and administrators.

The Commission has long advised that a Superintendent cannot act on matters that impact his family members. In *Advisory Opinion A22-16* (A22-16), the Commission advised a Superintendent that he could not participate in negotiations when his relative was employed in a neighboring school district in a similar labor union. In *Advisory Opinion A13-20* (A13-20), the Commission cautioned that a Superintendent could not recommend his sister-in-law for a promotion or take any other action related to her employment as it would violate *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c).

N.J.S.A. 18A:12-24(b) prohibits a school official from using or attempting to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others. The Commission finds that here, Respondent used his position as Superintendent when he participated in labor negotiations with the union of the administrator who supervised his daughter and thus, he used or attempted to use his position to secure an unwarranted privilege or advantage for a member of his immediate family. Therefore, a violation of *N.J.S.A.* 18A:12-24(b) has been established.

N.J.S.A. 18A:12-24(c) prohibits a school official from acting in his official capacity in a matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment, and from acting in his official capacity in a matter where he or a member of his 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 v. Rizas*, 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.” *I/M/O James 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 the current matter, the Commission agrees with the ALJ that a reasonable person would view Respondent as lacking objectivity or independence when he participated in labor negotiations with the union of the administrator who supervised his daughter. Therefore, the Commission agrees that a violation of *N.J.S.A.* 18A:12-24(c) has been substantiated.

With respect to a penalty, the Commission rejects the recommendation of a penalty of reprimand. The Commission notes that based on the plethora of guidance where the Commission advised that participation in matters concerning the employment of a member of a school official’s relative and/or anyone who has a supervisory role over the family member is prohibited, a penalty of censure is more appropriate and is warranted for the violations of *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c).

V. Decision

For the aforementioned reasons, the Commission adopts the ALJ’s findings of fact and the legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c), and modifies the recommended penalty to a 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 Office 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: September 23, 2025

***Resolution Adopting Decision
in Connection with C15-24***

Whereas, at its meeting on August 27, 2024, 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 June 12, 2025; and

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

Whereas, Petitioner and Respondent filed exceptions to the Initial Decision, and Petitioner filed a response to Respondent's exceptions; and

Whereas, at its meeting on August 19, 2025, the Commission reviewed the record in this matter, discussed adopting the ALJ's findings of fact and the legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24(b) and *N.J.S.A.* 18A:12-24(c), and modifying the recommended penalty of reprimand to a censure; and

Whereas, at its meeting on September 23, 2025, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on August 19, 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 meeting on September 23, 2025

Brigid C. Martens, Director
School Ethics Commission