

Before the School Ethics Commission
OAL Docket No.: EEC-01233-24
SEC Docket No.: C42-23
Final Decision

**Andrew Lewis,
Complainant**

v.

**Salvatore Giordano,
Old Bridge 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 April 11, 2023,¹ by Andrew Lewis (Complainant), alleging that Salvatore Giordano (Respondent), a member of the Old Bridge Township Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.* More specifically, the Complaint avers that Respondent violated *N.J.S.A. 18A:12-24.1(e)* and *N.J.S.A. 18A:12-24.1(f)* of the Code of Ethics for School Board Members (Code) in Counts 1 and 2. On June 19, 2023, Respondent filed a Written Statement.

At its meeting on, January 23, 2024, and after reviewing the Complaint and the Written Statement, the Commission adopted a decision finding probable cause for the alleged violation of *N.J.S.A. 18A:12-24.1(f)* in Count 2, but finding probable cause did not exist for the remaining violations alleged in the Complaint. Based on its decision, the Commission also voted to transmit the matter to the Office of Administrative Law (OAL), where Complainant would carry the burden to prove that Respondent violated the cited provision of the Code.

At the OAL, following Complainant's motion for summary decision, the Administrative Law Judge (ALJ) issued an Initial Decision on January 27, 2025, finding that Respondent violated *N.J.S.A. 18A:12-24.1(f)*, and recommending a penalty of reprimand. The parties did not file exceptions to the Initial Decision.

At its meeting on March 25, 2025, the Commission reviewed the Initial Decision, and at its meeting on April 22, 2025, the Commission voted to adopt the Initial Decision's findings of fact, the legal conclusion that Respondent violated *N.J.S.A. 18A:12-24.1(f)*, and the recommended penalty of reprimand.

¹ On April 10, 2023, Complainant filed a deficient Complaint; however, on April 11, 2023, Complainant filed an Amended Complaint, which cured all defects and was deemed compliant with the requirements detailed in *N.J.A.C. 6A:28-6.3*.

II. Initial Decision

The ALJ made the following findings of fact based on the joint stipulation of facts and joint exhibits:

1. Salvatore Giordano is a resident of Old Bridge Township and in January 2020, he became a member of the Board.
2. Respondent Giordano was elected as Board President in January 2023.
3. On March 25, 2023, Respondent Giordano filed a petition with the New Jersey Division of Elections to run as a candidate in the Republican Primary Election for the General Assembly's 12th Legislative District.
4. Respondent attended a Board meeting on April 25, 2023, in his capacity as Board President, at which he made the following statement:

As many of you know, it's primary season so please do your research on candidates. I just happen to be on the ballot for General Assembly and would appreciate any support and questions you may have about the process or anything. And even if some races are unopposed, just make sure your voices are heard so we could have a high turnout. Thank you.

5. The statement was made at the end of the Board meeting, during "board business," and only Board members were allowed to speak during that portion of the meeting.
6. Respondent Giordano was the only Board member to speak about the General Assembly election and he was seated behind a placard that identified him as the Board President when he made the statement. He did not make these comments from the microphone where private citizens are directed to speak during Board meetings.
7. Respondent Giordano did not include a disclaimer during or after his statement that he was doing so as a private citizen rather than as the Board President nor did he express that his candidacy did not reflect the endorsement, opinion, or approval of the Board, or that his request for support did not connote any action, support, or endorsement of the Board for his candidacy.
8. None of the Board members who spoke during the meeting expressly stated whether they were speaking on behalf of the Board or as a private citizen.
9. During the same meeting, Giordano voted against the Board's adoption of the New Jersey State Bar Association's Code of Ethics.²

Initial Decision at 3-4.

² The Commission notes that the parties meant New Jersey School Boards Association's Code of Ethics.

The ALJ concluded that Respondent made comments during a Board meeting about his candidacy in an upcoming General Assembly primary seeking support, without a disclaimer that his statement was being made in his capacity as a private citizen and not as a Board member/Board President. *Id.* at 10. Therefore, the ALJ found that Respondent used his position on the Board to solicit support and/or votes for his personal political campaign and in doing so, used the schools to acquire a personal benefit in violation of *N.J.S.A.* 18A:12-24.1(f). *Ibid.* Thus, the ALJ found the charges brought against Respondent have been proven by a preponderance of the evidence and must be sustained. *Ibid.* The ALJ also concluded that because this is Respondent's first violation, and his conduct was not ongoing, the appropriate penalty is reprimand. *Ibid.* The ALJ ordered that Complainant's motion for summary decision be granted, and Respondent be issued a reprimand for the violation. *Id.* at 11.

III. Analysis

Upon a careful, thorough, and independent review of the record, the Commission agrees with the ALJ's findings of fact, legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24.1(f), and the recommended penalty of reprimand.

According to *N.J.S.A.* 18A:12-24.1(f), a board member must refuse to surrender his or her independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends. The Commission agrees with the ALJ that Respondent's statements at a Board meeting, during "[B]oard business," when only Board members were allowed to speak during that portion of the meeting, about how he was running for General Assembly, and his failure to include a disclaimer about his comments, was Respondent using his position on the Board to solicit support and/or votes for his personal political campaign. In doing so, the Commission finds Respondent used the schools to acquire a personal benefit, in violation of *N.J.S.A.* 18A:12-24.1(f).

The Commission agrees with the ALJ that a reprimand is the appropriate penalty for Respondent's violation of *N.J.S.A.* 18A:12-24.1(f). While Respondent's communication was inappropriate and compromised the Board, Respondent only made the inappropriate comments at one meeting and the conduct was not ongoing.

IV. Decision

For all of the aforementioned reasons, the Commission adopts the Initial Decision's findings of fact, the legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24.1(f), and the recommended 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 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: April 22, 2025

***Resolution Adopting Final Decision
in Connection with C42-23***

Whereas, at its meeting on January 23, 2024, the School Ethics Commission (Commission) voted to transmit the above-captioned matter to the Office of Administrative Law (OAL) for a plenary hearing; and

Whereas, the ALJ issued an Initial Decision on January 27, 2025;

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

Whereas, neither party filed exceptions to the Initial Decision; and

Whereas, at its meeting on March 25, 2025, the Commission reviewed the record in this matter, and discussed adopting the Initial Decision's findings of fact, the legal conclusion that Respondent violated *N.J.S.A.* 18A:12-24.1(f), and the recommended penalty of reprimand; and

Whereas, at its meeting on April 22, 2025, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on March 25, 2025; and

Now Therefore Be It Resolved, the Commission hereby adopts the within decision as its Final Decision, and directs its staff to notify all parties to this action of its decision herein.

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at its regularly scheduled meeting on April 22, 2025.

Dana C. Jones
School Ethics Commission