

***Before the School Ethics Commission
Final Decision***

**Shauna Williams,
Complainant**

**OAL Docket No.: EEC-10551-22
SEC Docket No.: C64-22**

v.

**Robert Cianciulli, Jordan Hyman, Angela Penna,
Pamela Stanley and Michael D'Aquila
Berkeley Heights Board of Education, Union County,
Respondents**

CONSOLIDATED

**Douglas Grober,
Complainant**

**OAL Docket No.: EEC-00171-23
SEC Docket No.: C77-22**

v.

**Robert Cianciulli, Jordan Hyman, Pamela Stanley,
Michael D'Aquila, Angela Penna and Joy Young,
Berkeley Heights Board of Education, Union County,
Respondents**

**I/M/O Pamela Stanley,
Berkeley Heights Board of Education, Union County,**

**OAL Docket No.: EEC-03852-23
SEC Docket No.: C92-22**

I. Procedural History

The above-captioned matter arises from three separate but related Complaints filed with the School Ethics Commission (Commission), by Shauna Williams (Complainant Williams) (C64-22), Douglas Grober (Complainant Grober) (C77-22) and Edmund Maciejewski (Complainant Maciejewski) (C92-22), which allege that members of the Berkeley Heights Board of Education (Board) violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.*, when they voted to authorize one Board member to file an ethics complaint against another Board member, and authorized Board counsel to represent her in the filing. More specifically, in the matter docketed by the Commission as C64-22, filed on June 8, 2022, Complainant Williams alleged that Robert Cianciulli (Respondent Cianciulli), Jordan Hyman (Respondent Hyman), Angela Penna (Respondent Penna), Pamela Stanley (Respondent Stanley) and Michael D'Aquila (Respondent D'Aquila) (collectively, Respondents) violated *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(e), *N.J.S.A.* 18A:12-24.1(f) and *N.J.S.A.* 18A:12-24.1(g) of the Code of Ethics for School Board Members (Code). In the matter docketed by the Commission as C77-22, filed on July 25, 2022, Complainant Grober alleged that Respondent Cianciulli, Respondent Hyman, Respondent Stanley, Respondent Penna and Joy Young (Respondent Young) violated *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(f) of the Code. In the matter docketed by the Commission as C92-22, filed on October 5, 2022, Complainant Maciejewski alleged that Respondent Stanley violated *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.*

18A:12-24(f) and *N.J.S.A.* 18A:12-24(g), as well as *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(f) of the Code.¹

At its special meeting on October 17, 2022, and after reviewing Respondents' Motion to Dismiss in Lieu of Answer (Motion to Dismiss) in C64-22 and Complainant Williams' response thereto, the Commission adopted a decision denying the Motion to Dismiss in its entirety. Based on its decision, the Commission voted to direct Respondents to file an Answer to Complaint (Answer) as to the allegations in C64-22, and to transmit the matter to the Office of Administrative Law (OAL) following receipt of the Answer.

At its meeting on November 22, 2022, and after reviewing Respondents' Motion to Dismiss in C77-22 and Complainant Grober's response thereto, the Commission adopted a decision denying the Motion to Dismiss in its entirety. Based on its decision, the Commission voted to direct Respondents to file an Answer as to the allegations in C77-22, and to transmit the matter to the OAL following receipt of the Answer.

At its meeting on January 31, 2023, and after reviewing Respondent Stanley's Motion to Dismiss and allegation of frivolous filing in C92-22, and Complainant Maciejewski's response thereto, the Commission adopted a decision granting the Motion to Dismiss as to the alleged violation of *N.J.S.A.* 18A:12-24(g); denying the Motion to Dismiss as to the stated violations of *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24(f), *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(f); finding the Complaint not frivolous, and denying Respondent Stanley's request for sanctions; and directing Respondent Stanley to file an Answer as to the remaining allegations. Thereafter, on April 25, 2023, the Commission voted to find probable cause for the remaining allegations in the Complaint, namely *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24(f), *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(f). Based on its finding of probable cause, the Commission voted to transmit the within matter to the 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 C92-22 that the Commission found probable cause to credit.

The three matters were consolidated at the OAL to promote a prompt and fair resolution of all issues raised by the pleadings. Following cross-motions for summary decision and oral argument on the motions, the Administrative Law Judge (ALJ) issued an Initial Decision on November 7, 2024, finding that Respondent Stanley violated *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24(f), and all Respondents violated *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(f), and recommending a penalty of reprimand.³ Petitioner and Respondents both filed exceptions to the Initial Decision, in accordance with *N.J.A.C.* 1:1-18.4, and Petitioner and Respondents both also filed replies. Complainants Williams and Grober notified the Commission that they are joining in Petitioner's exceptions and reply.

¹ Complainant also alleged in C92-22 that Respondent Stanley violated *N.J.S.A.* 18A:12-24(a) and *N.J.S.A.* 18A:12-24.1(a), but Complainant voluntarily withdrew those claims.

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

³ The Initial Decision did not address the alleged violation of *N.J.S.A.* 18A:12-24.1(g) in C64-22.

At its meeting on January 28, 2025, the Commission considered the full record in this matter. Thereafter, at its meeting on February 18, 2025, the Commission voted adopt the legal conclusions that Respondent Stanley violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)* and *N.J.S.A. 18A:12-24(f)*, and all Respondents violated *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(f)*, voted to modify the legal conclusions to find that Respondents did not violate *N.J.S.A. 18A:12-24.1(g)*, and voted to modify the recommended penalty of reprimand in favor of censure.

II. Initial Decision

On May 25, 2022, Respondents Cianciulli, Hyman, Penna, Stanley and D'Aquila voted to file an ethics complaint against another Board member, Sai Bhargavi Akiri (Akiri). *Initial Decision* at 5. At the June 16, 2022, Board meeting, all Respondents voted to authorize Respondent Stanley to file the complaint against Akiri, and that the Board's attorney would draft the charges. *Ibid.* Additionally, Respondents (including Stanley) voted against a motion to strike the resolution authorizing the complaint and to require Respondent Stanley to obtain her own legal counsel to file the charges. *Ibid.*

The ALJ found that the evidence presented supports that Respondent Stanley violated the Act when she voted in favor of the Board's attorney to draft the charges for the ethics complaint against another Board member, and against a resolution to hire her own counsel to do so. *Id.* at 22. According to the ALJ, Respondents "voted on a motion that would authorize [the] Board's counsel to draft the charges against another Board member." *Ibid.* The ALJ indicated that "[b]ecause the board of education cannot file an ethics complaint," Board counsel "should not have been involved in such proceedings – even under the pretext that it is a board's action." *Ibid.* The ALJ further found that "[v]oting in favor of such motion would fall beyond the scope [of] any board member[s] duties," and "[w]hen Respondent Stanley agreed to file the ethics complaint against Akiri on behalf of the [B]oard, and voted against a motion that would strike her requirement to seek her own counsel to pursue the claim . . . she used her official position as a Board member to secure an unwarranted advantage for herself: free legal representation, a benefit not generally available to the public." *Ibid.* As such, the ALJ found Respondent "acted in her official capacity in a matter that conferred some benefit to herself, in that, she would not have to pay any legal expenses in the action." *Ibid.* Therefore, the ALJ concluded that Respondent Stanley violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)* and *N.J.S.A. 18A:12-24(f)*. *Ibid.*

As to a violation of *N.J.S.A. 18A:12-24.1(c)*, the ALJ found that the evidence presented supports that Respondents' actions were not related to policy making, planning and appraisal. *Id.* at 23. The ALJ noted that a plain reading of *N.J.A.C. 6A:28-6.1(a)* indicates that a board of education cannot file an ethics complaint against a board member, and if a board member decides to file the complaint individually, he or she should seek individual counsel. *Id.* at 24. The ALJ asserted that although the action was initiated after the Board discussed and agreed upon the matter, Respondents "fail to explain how voting in favor of a resolution directing the Board's counsel to draft the charges against Akiri is related to development of general rules and principles that guide the management of the school district, the formulation of programs and methods to effectuate the goals of the school district or to ascertain the value or liability of a

policy.” *Ibid.* Per the ALJ, the Commission has “clearly” stated that “a board member ‘is free to, among other things, ask questions, make requests, offer a statement or opinion, make inquiries about Board issues/matters, and to raise issues regarding business of the Board.’” *Id.* at 24-25. However, the ALJ found that “[c]omplaining that a board member disagrees with the majority of the board is not related to the development of general rules . . .”; and therefore, when Respondents voted in favor of filing an ethics complaint, they violated *N.J.S.A.* 18A:12-24.1(c). *Id.* at 25.

As to a violation of *N.J.S.A.* 18A:12-24.1(e), the ALJ found that Complainants have provided sufficient factual evidence that Respondents took action beyond their duties such that it compromised the Board. *Ibid.* The ALJ asserted that although a majority of the Board supported the action, the regulation states that only a “person” may file a complaint. *Id.* at 26. The ALJ further asserted that because the Board could not be a party in the action, the Board’s resources, such as Board counsel, should not have been utilized. *Ibid.* Therefore, the ALJ found that when Respondents voted on a motion that would “authorize the Board’s counsel to draft and litigate an ethics complaint against a board member,” they acted beyond the scope of a board member’s duty and violated *N.J.S.A.* 18A:12-24.1(e). *Ibid.*

Regarding a violation of *N.J.S.A.* 18A:12-24.1(f), the ALJ asserted that Respondent Stanley admitted to voting in favor of the motion to strike the requirement of hiring her own attorney, and therefore, she used her position to secure free legal representation. *Id.* at 27. The ALJ found that the lack of involvement of a special interest or political partisan group is irrelevant if Respondents used the schools to acquire a benefit for themselves. *Id.* at 27-28. The ALJ ultimately found that Complainants have provided sufficient factual evidence that Respondents violated the *N.J.S.A.* 18A:12-24.1(f). *Id.* at 26.

The ALJ noted that after the submission of the brief and certifications in support and opposition to the pending motions, Respondents submitted a copy of an Opinion of the Advisory Committee on Professional Ethics (Advisory Opinion), arguing that the Advisory Opinion contained relevant information to the cross-motions for summary decision. *Id.* at 28. The ALJ found the Advisory Opinion is not relevant to the issues in this matter as it related to “ethical rules governing attorneys and the instant matter deals with totally separate and distinct ethical rules which govern school board members.” *Ibid.* Therefore, the ALJ found that relevancy had no impact on whether Respondent Stanley gained an unethical benefit by receiving free legal counsel at taxpayers’ expense or whether all Respondents acted unethically when they authorized Respondent Stanley to file the complaint. *Ibid.*

As to penalty, the ALJ noted that although Respondents have violated the Act and Code, “the fact that they were informed by counsel that their actions were appropriate is a mitigating factor to which [the ALJ gives] substantial weight,” and therefore, the ALJ recommended that the appropriate sanction is a reprimand. *Id.* at 29.

III. Exceptions

Petitioner's Exceptions⁴

Although Petitioner does not take exceptions to the ALJ's findings, Petitioner does take exceptions to the ALJ's recommended penalty of reprimand. While the ALJ stated that Respondent Stanley was informed by counsel that her actions were appropriate, Petitioner maintains the ALJ did not "make any specific findings regarding what advice Stanley specifically sought," nor provide "any analysis of other factors which would affect the penalty." Petitioner argues the ALJ issued the most lenient penalty and "failed to consider the level and nature of Stanley's violations and improperly relied on Stanley's allegation that she relied on advice of counsel." Petitioner further argues that because Respondent "failed to establish the mitigating factor of reliance on counsel, no other mitigating factors are present," and "given the seriousness and public nature of the violations . . ." censure should be the lowest penalty issued.

Petitioner asserts that "using one's position to secure unwarranted privileges is a gross violation of the [Act.]" As such, Petitioner notes the Commission has "routinely imposed censure." Petitioner further notes Respondent Stanley "violated the public trust when she utilized her position on the Board to vote on a resolution which directed the Board to provide her with legal representation for the preparation, filing, and prosecution of an ethics complaint against another Board member." Moreover, according to Petitioner, Respondent Stanley "further violated this trust when she voted against a motion to strike which resulted in the Board bearing all attendant costs and expenses." Petitioner notes that Respondent Stanley "was much more than a passive observer in actions taken by the Board; she actively participated in votes on matters which directly conferred personal financial gain," and she "was aware of her ethical obligations as she was an experienced board member."

Petitioner contends the ALJ reasoned that "mitigation was appropriate because Stanley had relied on the advice of Board counsel"; however, Petitioner argues this "finding must be rejected because the ALJ failed to make any findings of fact to support that claim, which the record does not support." According to Petitioner, "[r]eliance on advice of counsel may mitigate a penalty, but it does not inoculate respondents from a finding that their conduct violated the Act or the Code." Ultimately, Petitioner argues that Respondent Stanley's "violations are not predicated on her filing an ethics complaint against another Board member, but on her failure to recuse herself from motions in which she had a direct pecuniary interest and actively voting to confer a benefit for herself." Therefore, Petitioner asserts Respondent Stanley's "admitted actions constitute a serious violation of the public trust and call for, at minimum, a penalty of censure."

Respondents' Exceptions

First, Respondents take exception to the ALJ's determination that Respondent Stanley took private action to secure a private benefit of any kind. Regarding the ALJ's finding that "the

⁴ Complainants Williams and Grober notified the Commission that they are joining Petitioner's exceptions.

evidence presented supports [the conclusion] that Stanley violated the [School Ethics] Act when she voted in favor of the Board's attorney to draft the charges for the ethics complaint against another Board member, and against a resolution to hire her own counsel to do so," Respondents argue Respondent Stanley "voted with a majority of the [B]oard on a resolution authorizing the Board's counsel to represent her as a representative petitioner with the filing of the complaint on behalf of the Board." Further, Respondents argue that while the ALJ "summarily concluded that the benefit of free legal representation was conferred upon Mrs. Stanley," the ALJ "conflated and ignored important facts of record that directly contradict this conclusion and support the opposite conclusion." Respondents maintain that Respondent Stanley "only agreed to sign the complaint on behalf of the Board, upon the authorization and request of a majority of the full Board, as a matter of procedural compliance." Moreover, according to Respondents, at the time of the filing of the complaint, Respondents were "complying with a good faith interpretation of the Commission's own guidance," namely that a "complaint must include a person as the complainant(s), and cannot be submitted on behalf of an organization or entity," and "the regulations relied upon by [the ALJ] do not 'preclude' a person from filing on behalf of an entity, but rather suggest that an entity may not file a complaint itself." Additionally, Respondents argue there was not any evidence to support that Respondent Stanley had a "direct financial interest" and the conclusion that "the financial benefit conferred upon Mrs. Stanley was free legal representation . . . is specious." Respondents note Respondent Stanley was "never personally billed by the Board Attorney, nor did she retain the Board Attorney privately."

Second, Respondents take exception to the finding of a violation of *N.J.S.A.* 18A:12-24.1(c). Respondents argue the "Board as a whole took action to authorize the drafting of an ethics complaint against Mrs. Akiri to address persistent public conduct of Akiri that the Board reasonably perceived as injurious to school district personnel." Respondents note they only took this action "after unsuccessful attempt[s] to address Akiri's" pattern of perceived misconduct were addressed in executive session. Therefore, Respondents maintain that by filing the complaint, the Board "took reasonable action that it, by majority vote, deemed necessary to effectuate 'policies and plans' and attend to their 'duties as Board members' in particular the duty to protect and support school personnel in the performance of their duties." Respondents further maintain the evidence demonstrates that their actions "were directly related to their duty" and they were "acting to support the general rules and principles that guide management of the district."

Third, Respondents also take exception to the finding of a violation of *N.J.S.A.* 18A:12-24.1(e) because the Complaints do not contain an allegation that personal promises were made. Respondents maintain that a "Board vote authorizing the filing of a complaint against another is axiomatically 'board action' and not a 'private action,'" and the Board Resolution authorizing the same is further evidence of Board action. Therefore, they assert that Respondent Stanley's actions cannot be private action.

Finally, Respondents take exception to the ALJ's finding of a violation of *N.J.S.A.* 18A:12-24.1(f). Respondents contend there is not any evidence "to support the notion that any Respondent used their position on the Board to obtain any personal gain on behalf of themselves or others." On the contrary, Respondents maintain they voted to file the complaint "as part of their policy making power" and to "protect the reputation of the Board and to regain the ability

to create policy that represented the schools efficiently.” Respondents argue they did not take this action on behalf of any other group and there was not any evidence to the contrary. Respondents contend for the reasons detailed above, the Commission should reject the Initial Decision “as unsupported by a sufficient factual record and contrary to applicable law.”

Petitioner’s Reply to Respondents’ Exceptions⁵

Petitioner maintains the ALJ accurately determined based on “undisputed facts” that Respondent Stanley violated the Act “by voting on matters which she had a personal involvement and which conferred a direct, unwarranted financial benefit.” Petitioner notes that a violation of the Act or Code “does not turn on whether a benefit is actually conferred; rather, it is whether the board member had an actual relationship that a reasonable member of the public ‘would expect to create a conflict of interest,’ and whether the board member’s actions breach the public trust.” Petitioner maintains “it is undisputed” that Respondent Stanley voted on the Resolution, which provided her with Board counsel and voted against a separate motion to strike. According to Petitioner, “[b]y failing to recuse herself, Stanley unequivocally used her position to ‘secure unwarranted privileges,’ ‘secure financial gain,’ and ‘create[] some benefit’ for herself that is not available to the public that is, she affirmatively voted on matters which ensure she received legal counsel in her personal capacity to file and prosecute an ethics complaint, paid by the Board.” Petitioner further maintains Respondent Stanley’s “admitted conduct of voting to grant herself the benefit of legal counsel paid by the Board” violated the Code because she used “her votes to secure personal legal services at the taxpayers’ expense,” and therefore, “failed to ‘confine [her] board action to policy making,’” “failed to ‘refuse to surrender [her] independent judgment,’” and “failed to ‘refuse to . . . use the school for personal gain,’” ultimately, compromising the Board. Petitioner asserts “regardless of whether a board votes to authorize a member to file an ethics complaint, an individual can only file a complaint personally and must ‘seek his or her own counsel.’”

Respondents’ Reply to Petitioner’s Exceptions

As an initial matter, Respondents note that there is not any evidence to demonstrate that Respondent Stanley “had any personal involvement with the drafting or filing of the Complaint.” Respondents maintain the Board counsel drafted the complaint without Respondent Stanley’s involvement, and therefore, Petitioner’s “argument for a censure is premised on the unsubstantiated conclusion that Stanley acted to obtain a personal benefit in the filing of the ethics complaint on behalf of the Board.” However, according to Respondents, “the facts demonstrate that at all times Stanley was not acting in her individual capacity for a matter she individually sought, but as and on behalf of the Board, pursuant to Board authorization.”

Respondents argue Petitioner did not provide, nor did the ALJ find any evidence to demonstrate that Respondent Stanley “or any other Respondent voted on a resolution allowing Stanley to avoid personal financial responsibility or directing the Board to provide her, ‘**as an individual,**’ with legal counsel through the Board’s Attorney.” Respondents contend that the

⁵ Complainants Shauna Williams and Doug Grober notified the Commission that they are joining Petitioner’s reply to exceptions.

ALJ “erred in concluding that there was a violation of the Act because Stanley at all times was acting on behalf of the Board, through authorization by the majority of the Board.”

Additionally, according to Respondents, although the ALJ “did not explicitly make findings of fact to support advice of counsel factors, [the ALJ’s] Initial Decision contains many factual oversights in coming to his ultimate conclusion.” Respondents maintain although the ALJ did not explicitly articulate the facts, it “does not mean that those facts do not exist.” Therefore, Respondents contend the ALJ “was correct in determining that the advice of counsel defense applied in this situation.” However, the ALJ’s recommended penalty of reprimand “is excessive given the fact that Respondents were not only complying with the advice from the Board Attorney, but also that of the Commission’s own guidance.” Based on the above, Respondents argue a penalty should not be imposed on Respondents as they did not violate the Act. Alternatively, should the Commission find a violation occurred, Respondents argue a penalty should not be imposed.

IV. Analysis

Upon a careful, thorough, and independent review of the record, the Commission the agrees with the Initial Decision’s legal conclusions that Respondent Stanley violated *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24(f), and all Respondents violated *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(f), but modifies the legal conclusions to find that Respondents did not violate *N.J.S.A.* 18A:12-24.1(g). The Commission also modifies the recommended penalty of reprimand in favor of censure.

N.J.S.A. 18A:12-24(b) prohibits a school official from using or attempting to use her official position to secure unwarranted privileges, advantages or employment for herself, members of her immediate family or others. The Commission finds that Respondent Stanley used her position as a Board member to secure the privilege and advantage of using Board counsel to represent her in an ethics proceeding that she filed. Despite Respondents’ argument that Respondent Stanley simply filed the ethics complaint on behalf of the Board and did not seek counsel on her own behalf, the Act makes clear that only “[a] person” may file an ethics complaint with the Commission. *N.J.S.A.* 18A:12-29(a). The Commission has consistently held the belief that whether a Board votes to approve and/or adopts a resolution authorizing a Board member to file an ethics complaint with the Commission, the fact remains that the individual, and the individual *alone*, is the named Complainant, and thus, it is his or her *own* complaint, and not the Board’s. In this circumstance, to make matters worse, the Board, including Respondent Stanley, authorized the use of taxpayer funds by way of Board counsel to file an ethics complaint against another duly elected Board member. The use of the Board’s resources to provide Respondent Stanley with representation in filing ethics charges constitutes a clear privilege or advantage that she received solely because of her position as a Board member. As such, the Commission agrees with the ALJ that Respondent Stanley violated *N.J.S.A.* 18A:12-24(b).

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. Respondent Stanley voted to authorize the use of Board counsel to file ethics charges in her name, without personally paying that attorney for the representation. The Commission finds that in doing so, Respondent Stanley took action in her official capacity in a matter where she has a financial involvement – free legal representation – that might reasonably be expected to impair her objectivity or independence of judgment. A reasonable member of the public would perceive that Respondent Stanley would have a conflict of interest in voting to authorize the use of Board counsel’s services for a matter that she personally supports and will be filed in her name against another Board member. Accordingly, the Commission agrees with the ALJ that Respondent Stanley violated *N.J.S.A. 18A:12-24(c)*.

N.J.S.A. 18A:12-24(f) prohibits a school official from using, or allowing to be used, her public office or employment, or any information, not generally available to the members of the public, which she receives or acquires in the course of and by reason of her office or employment, for the purpose of securing financial gain for herself, any member of her immediate family, or any business organization with which she is associated. The Commission finds that Respondent Stanley used her position, and the ability to use Board counsel, for her personal use. The ability to retain Board counsel, free of charge personally, provided Respondent Stanley with financial gain that was only available to her due to her position on the Board. Therefore, the Commission agrees with the ALJ that Respondent Stanley violated *N.J.S.A. 18A:12-24(f)*.

Pursuant to *N.J.S.A. 18A:12-24.1(c)*, board members must confine board action to “policy making, planning, and appraisal” and “frame policies and plans only after the board has consulted those who will be affected by them.” The Commission finds that Respondents’ vote to authorize the filing of ethics charges on behalf of the Board and the authorization of Board counsel to facilitate the filing, when the Board is not permitted to file ethics charges, was action outside of their roles to make policy, plan and appraise. Despite Respondents’ argument that their actions were directly related to their duties as Board members because they had unsuccessfully made attempts to address Akiri’s pattern of misconduct, and therefore, they voted as a majority to file the charges which they “deemed necessary” to effectuate policies and plans and support school personnel, the Commission finds that directing the Board attorney to engage in legal work that the Board itself is not authorized to file is action unrelated to Respondents’ duties as a Board member. As such, the Commission agrees with the ALJ that Respondents violated *N.J.S.A. 18A:12-24.1(c)*.

Under *N.J.S.A. 18A:12-24.1(e)*, a board member must recognize that authority rests with the board and a board member shall not make any personal promises or take any action that may compromise the board. The Commission finds that Respondents’ actions in authorizing Board counsel to facilitate ethics charges that they personally supported and that they, in essence, told Respondent Stanley to file, was action outside of the scope of their duties as Board members. Ethics charges that are filed with the Commission are filed by individuals, not entities, and therefore, the individual Board members (or one representative, in this circumstance) are required to file the matter on their own behalf, not on behalf of a Board. While Respondents argue that the action was “board action,” the Commission notes that the Board was not permitted to take any action, and Respondents simply sought to turn their personal motives into a Board

matter by improperly authorizing the filing of ethics charges. The Commission further finds that Respondents' actions certainly had the potential to compromise the Board, as they initiated legal proceedings against another sitting Board member, and authorized Board counsel to file the ethics charges, which will cost the Board money in legal bills. Accordingly, the Commission agrees with the ALJ that Respondents violated *N.J.S.A. 18A:12-24.1(e)*.

Pursuant to *N.J.S.A. 18A:12-24.1(f)*, a board member must refuse to surrender independent judgment to special interest or partisan groups or use the schools for personal gain or for the gain of friends. The Commission finds that Respondents used the schools to acquire a benefit for themselves and when they authorized the use of the Board's attorney to file ethics charges on their own behalf (through Respondent Stanley). In doing so, Respondents secured free legal representation for the filing of ethics charges, which is a personal gain for themselves, or for their colleague, Respondent Stanley. Therefore, the Commission agrees with the ALJ that Respondents violated *N.J.S.A. 18A:12-24.1(f)*.

N.J.S.A. 18A:12-24.1(g) requires a board member to hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools, and also to provide accurate information. Although this provision of the Code was not addressed by the ALJ, the Commission finds that it has not been established that in authorizing the filing of ethics charges, Respondents took action to make public, reveal or disclosure any information that was confidential or not public. As such, the Commission finds that Respondents Cianciulli, Hyman, Penna, Stanley or D'Aquila did not violate *N.J.S.A. 18A:12-24.1(g)*.

With respect to the appropriate penalty, the Commission modifies the recommended penalty of reprimand to censure for all Respondents. Respondents unquestionably weaponized the Board to file legal proceedings against a fellow Board member and went so far as to authorize the use of Board counsel to support their cause. Such actions are highly inappropriate and deserve a more severe sanction than reprimand, especially given that the Commission's statute, which has remained unchanged, indicates that only individuals can file ethics charges, not boards of education. *N.J.S.A. 18A:12-29(a)*. Additionally, while individuals may file ethics charges against other Board members, voting at a *public* meeting to file ethics charges against another Board member (when ethics charges would otherwise be held confidential pursuant to *N.J.A.C. 6A:28-6.6(g)*) and using Board counsel to facilitate the filings against another duly-elected Board member, when a Board is not authorized to take such action, has the potential to compromise the Board, as Respondents improperly used the Board and its resources to support their own goals. Notably, the Commission has previously issued a penalty of censure, in a similar matter where a Board President violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24.1(e)* and *N.J.S.A. 18A:12-24.1(f)* when he requested that Board counsel conduct research regarding another Board member, who was his political rival. *I/M/O Shawn Giordano*, Lacey Township Board of Education, C04-20 (July 25, 2023), *affirmed* (May 15, 2024).

While the ALJ reasoned that a penalty of reprimand was appropriate because Respondents were informed by counsel that their actions were appropriate, this reasoning is unsupported by the Initial Decision's factual findings, and the record. The Commission acknowledges that considering the factors set forth in *In re Zisa*, 385 *N.J. Super.* 188 (App. Div. 2006), the defense of advice of counsel may be considered a mitigating factor when imposing

penalties for ethical violations. However, in this circumstance, it has not been established that Respondents actually sought the advice of counsel prior to voting, let alone in advance of every action they took. Whether the attorney implicitly sanctioned Respondents' actions by moving forward in drafting the ethics charges does not satisfy the requirement that they seek advice prior to taking any action. However, even if Respondents did speak with counsel prior to voting to authorize the filing of ethics charges and also prior to voting to authorize counsel to file them, the Commission notes that there are also aggravating circumstances in this matter, specifically the public nature of Respondents' actions. Voting in public to authorize the filing of ethics charges against another Board member, and asking counsel to handle the matter, deserves a heightened and public remedy of censure, not the private remedy of reprimand. If members of the public were at the Board meeting or have read the meeting minutes of the public meeting when the improper and unauthorized votes took place, they deserve to learn the outcome that Respondents acted inappropriately and witness the public censure. Respondents made this an issue of public interest when they sought to make the alleged ethical violations of a fellow Board member known to the public by discussing it and voting on filing an ethics complaint at a public meeting; therefore, the general public now has a right to be informed of the sanction publicly. As such, when balancing any potential mitigating factor with the aggravating factor, the Commission finds that the aggravating factor weighs heavier on the scale, and a censure would nevertheless still be warranted in this matter. Accordingly, the Commission finds a penalty of censure is appropriate for Respondent Stanley's violations of *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, *N.J.S.A. 18A:12-24(f)*, as well as for all Respondents' violations of *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(f)*.

V. Decision

For the aforementioned reasons, the Commission adopts the ALJ's legal conclusions that Respondent Stanley violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)* and *N.J.S.A. 18A:12-24(f)*, and all Respondents violated *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(f)*, but modifies the legal conclusions to find that Respondents did not violate *N.J.S.A. 18A:12-24.1(g)*. Additionally, Commission modifies the recommended penalty of reprimand in favor 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 18, 2025

***Resolution Adopting Decision
in Connection with C64-22, C77-22 and C92-22 (Consolidated)***

Whereas, at its special meeting on October 17, 2022, the School Ethics Commission (Commission) voted to transmit the matter docketed as C64-22 to the Office of Administrative Law (OAL) for a hearing; and

Whereas, at its meeting on November 22, 2022, the Commission voted to transmit the matter docketed as C77-22 to the OAL for a hearing; and

Whereas, at its meeting on April 25, 2023, the Commission voted to transmit the matter docketed as C92-22 to the OAL for a hearing; and

Whereas, the matters docketed as C64-22, C77-22 and C92-22 were consolidated at the OAL; and

Whereas, on November 7, 2024, the ALJ issued an Initial Decision, finding that Respondent Stanley violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)* and *N.J.S.A. 18A:12-24(f)*, and all Respondents violated *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(f)*, and recommending a penalty of reprimand; and

Whereas, both Petitioner and Respondents filed exceptions to the Initial Decision and both Petitioner and Respondents filed replies; and

Whereas, at its meeting on January 28, 2025 the Commission reviewed the record in this matter, discussed adopting the legal conclusions that Respondent Stanley violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)* and *N.J.S.A. 18A:12-24(f)*, and all Respondents violated *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(f)*, discussed modifying the legal conclusions to find that Respondents did not violate *N.J.S.A. 18A:12-24.1(g)*, and discussed modifying the recommended penalty of reprimand in favor of censure; and

Whereas, at its meeting on February 18, 2024, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on January 28, 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 February 18, 2025

Brigid C. Martens, Director
School Ethics Commission