

Before the School Ethics Commission
OAL Docket No.: EEC-08965-23
SEC Docket No.: C75-18
Final Decision

In the Matter of Ardie Walser,
Teaneck Board of Education, Middlesex County,
Respondent

I. Procedural History

This matter arises from a Complaint that was filed on December 14, 2018,¹ by Michael Pagan (Complainant), alleging that Ardie Walser (Respondent Walser) and Shahanzaz Arjumand (Respondent Arjumand) (collectively referred to as Respondents), members of the Township of Teaneck Board of Education (Board), violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.* The Complaint alleged that Respondent Walser violated *N.J.S.A.* 18A:12-24(a), *N.J.S.A.* 18A:12-24(c), and *N.J.S.A.* 18A:12-24(d) in Counts 1-4, and that Respondent Arjumand violated *N.J.S.A.* 18A:12-24(a), *N.J.S.A.* 18A:12-24(c), and *N.J.S.A.* 18A:12-24(d) in Count 3.

On December 17, 2018, the Complaint was served on Respondents, via regular and certified mail, notifying them that charges were filed against them with the Commission, and advising that they had twenty (20) days to file a responsive pleading. On January 22, 2019, and after receiving an extension, Respondents filed a Motion to Dismiss in Lieu of Answer (Motion to Dismiss), and also alleged that the Complaint is frivolous. On February 11, 2019, Complainant filed a response to the Motion to Dismiss and allegation of frivolous filing. In his filing, Complainant agreed to voluntarily withdraw all allegations against Respondent Arjumand, thus leaving Respondent Walser as the only remaining Respondent.

The parties were notified by correspondence dated March 18, 2019, that this matter would be placed on the Commission's agenda for its meeting on March 26, 2019, in order to make a determination regarding the Motion to Dismiss and the allegation of frivolous filing. At its meeting on March 26, 2019, the Commission considered the filings in this matter and, at a special meeting on May 2, 2019, the Commission voted to deny the Motion to Dismiss in its entirety, and to direct Respondent Walser to file an Answer to Complaint (Answer) within twenty (20) days. The Commission also voted to find the Complaint not frivolous, and to deny the request for sanctions. On May 23, 2019, Respondent Walser filed an Answer as directed.

By correspondence dated June 11, 2019, the parties were advised that this matter would be placed on the Commission's agenda for its special meeting on June 19, 2019, in order to make a determination regarding probable cause. At its special meeting on June 19, 2019, the

¹ On December 5, 2018, Complainant filed a deficient Complaint; however, on December 14, 2018, 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.

Commission considered the filings in this matter, and at its meeting on July 23, 2019, the Commission voted to find probable cause for all of the allegations in the Complaint. Based on its finding of probable cause, the Commission also voted to transmit the within matter to the Office of Administrative Law (OAL) for a hearing.

In March 2021, the Commission served interrogatories and requests for production of documents on Respondent through his counsel, Philip E. Stern, Esq. (Stern) of the law firm of DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, PC. Stern failed to respond to the discovery requests. In March 2022, the Commission served requests for admissions on Stern; he again failed to respond. During 2022, Stern also failed to appear for three conferences scheduled by the Administrative Law Judge (ALJ). In May 2022, the Commission filed a motion to deem admitted the requests for admission and to strike Respondent's answer for failure to respond to discovery requests. In January 2023, the ALJ granted the motion, and the parties requested that the file be returned to the Commission. On April 14, 2023, the ALJ issued an Initial decision dismissing the matter. On June 27, 2023, the Commission rejected the Initial Decision, finding that because the answer had been stricken, the matter was no longer a contested case, and the Commission's regulations provide that the matter should be determined on a summary basis. The Commission found that Respondent had violated the Act and recommended a penalty of censure. On appeal to the Commissioner of Education, the Commissioner concluded that Respondent was not responsible for the behavior of his attorney, and that it should be remanded to the Commission for further proceedings. See Agency Dkt. No. 7-7/23A. The Commission decided to re-transmit to OAL for further proceedings.

At the OAL, after the conclusion of the testimony, Respondent renewed his Motion to Dismiss which was granted by the ALJ. The record closed on May 1, 2025, and the ALJ issued an Initial Decision on June 13, 2025, concluding Respondent did not violate *N.J.S.A.* 18A:12-24(a), *N.J.S.A.* 18A:12-24(c) and/or *N.J.S.A.* 18A:12-24(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(a) and *N.J.S.A.* 18A:12-24(c), adopt the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(d), and recommended that a penalty of reprimand be imposed.

II. Initial Decision

According to the ALJ, the initial Complaint contended that Respondent used the Board's website to promote his own business while he was the Board President. The ALJ maintains that at the time of the filing, Complainant and Respondent were "political adversar[ies]" "only to later come together and work closely" and the Commission "never explored [Complainant's] motivation for bringing the complaint, yet it based its findings primarily on what he originally stated without a more thorough investigation." *Initial Decision* at 3.

The ALJ avers that after denying Complainant's "direct appeal to the Commission to withdraw the complaint, the State called several witnesses during the hearing in an effort to prove the allegations against [Respondent]." *Ibid.* However, the ALJ maintains none of the witnesses could provide any evidence to support that Respondent violated the Act, and even Complainant admitted he did not believe the charges should be sustained. *Ibid.*

Per the ALJ, "[t]he theory and rationale behind the EEC's [(sic)] case seems to be solely based on what it was told by [Complainant]." *Id.* at 4. However, the ALJ asserts that "after considering the entire matter, there is insufficient evidence to support even the initial finding of probable cause in connection with any of the claims against [Respondent]." *Ibid.*

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

- While serving as the Board President, Respondent also started and served as chair of the board of a local non-profit Math Adventures and Word Play (MAWP).
- MAWP provides free tutoring and enrichment to students from communities throughout NJ and NYC.
- While serving as a Board member, MAWP issues have never come before the Board as an agenda item requiring action.
- As an all-volunteer organization, MAWP services are provided by church members, high school and college students and teachers.
- Respondent's position on the Board, as well as his role for MAWP were both strictly volunteer, unpaid, with no compensation involved.
- Seeking to enhance the learning experience of Teaneck students, some of whom require extra help and assistance, Respondent arranged and promoted MAWP to local students and teachers.
- The listing which was done several times through emails and flyers, was done with the approval of the Superintendent, as well as two other former school officials who testified.
- Respondent serves as an example and model of the type of individual who should be serving on local boards.

Initial Decision at 2-6.

The ALJ further finds that Respondent acted appropriately. *Id.* at 6. The ALJ also finds that Complainant's testimony and request to dismiss the Complaint demonstrates that there was insufficient probable cause to turn the matter into a formal complaint. *Ibid.* The ALJ further finds the act of circulating the availability of MAWP's free services was done with the approval of District administrators, a fact which was not explored or considered by the Commission. *Ibid.* The ALJ also finds that at all times relevant, Respondent did not violate the Act. *Ibid.* Finally, the ALJ finds all aspects of the original complaint filed against Respondent cannot be sustained and should be dismissed. *Ibid.*

III. Exceptions

Petitioner's Exceptions

Petitioner initially notes the parties stipulated to the fact that Respondent and then Board President provided services to the community through a non-profit (MAWP), used his Board email to publicize his non-profit, and asked District staff and administrators to publicize his organization to the community.

As to the exceptions, Petitioner maintains that the ALJ “erroneously” dismissed the matter because Complainant testified that he attempted to withdraw the Complaint. Petitioner argues that the law does not allow a complainant to withdraw a complaint alleging prohibited acts after there is a finding of probable cause. Moreover, “where there are allegations of prohibited acts, [], the complainant is no longer [] a party to the complaint and has no authority to withdraw the complaint.” Petitioner further argues this matter was already at the OAL for “factfinding” when Complainant decided to withdraw his complaint. Therefore, it was “insufficient justification for the ALJ to dismiss the complaint without even giving due consideration to the evidence.”

Next, Petitioner notes that the Initial Decision does not include any factual details from the Commission’s witnesses, nor does it detail the Commission’s exhibits. Petitioner asserts these details support that Respondent violated the Act. Namely, Petitioner points out that public advisory opinions, namely *Advisory Opinion A03-21* and *Advisory Opinion A04-21*, as well as the decisions regarding Friends Retirement Concepts v. Bd. of Educ. of the Borough of Somerville, 356 N.J. Super. 203, 213 (Law Div. 2002), In re Perrino, Little Egg Harbor Twp. Bd. of Educ., Ocean Cnty., C30-14 (July 28, 2015) (citing In re Haines, Haddonfield Bd. of Educ., Camden Cnty., C07-00 (Sept. 27, 2000), *aff’d*, (Nov. 27, 2000), and In re Famularo, Asbury Park Bd. of Educ., Monmouth Cnty., CO23-96 (Jan. 27, 1998), penalty modified, (Feb. 24, 1998) all support the conclusion that Respondent violated the Act.

Third, Petitioner argues it takes exceptions to the ALJ’s legal conclusion that Respondent did not violate the Act when he, as Board President, “provided services to his very own community, advertised the services he was providing to his own community, and then requested school administrators to advertise the services that [Respondent] was providing.”

Finally, Petitioner maintains that Respondent violated *N.J.S.A.* 18A:12-24(a), *N.J.S.A.* 18A:12-24(c) and *N.J.S.A.* 18A:12-24(d) of the Act, and further maintains that a censure is the appropriate penalty.

Respondent's Reply to Petitioner's Exceptions

Respondent maintains that he is “humbled by and thankful for the ALJ’s Initial Decision,” and he “accepts each and every word set forth.”

Respondent inquires why the Commission is pursuing this matter and notes that the Commission “owes [Respondent] an explanation for putting him through this nightmare.”

Respondent argues that he “refuses to dignify the SEC’s reruns of its age-old, pointless arguments that [Respondent] violated the [Act] by, *ipso facto*, contributing his vast talents to MAWP and the [Board] at the same time.”

IV. Analysis

Following receipt of an initial decision, “the Commission may reject or modify conclusions of law, interpretations of agency policy, or findings of fact not relating to issues of credibility of lay witness testimony, but shall clearly state the reasons for so doing.” *N.J.A.C.* 1:1-18.6. Further, the “order or final decision rejecting or modifying the initial decision shall state in clear and sufficient detail the nature of the rejection or modification, the reasons for it, the specific evidence at hearing and interpretation of law upon which it is based and precise changes in result or disposition caused by the rejection or modification.” *Id.*

The Commission disagrees that sufficient probable cause did not exist in this matter. A finding of probable cause by the Commission is not an adjudication on the merits, but rather, an initial review whereupon the Commission makes a preliminary determination whether the matter should proceed to an adjudication on the merits, or whether further review is not warranted. Given the breadth of public advisory opinions and other case law with similar fact patterns where violations of the Act were found, the Commission finds that it was appropriate for this matter to proceed to a fact-finding hearing. The Commission does not typically interview or ask either party or witnesses to testify as those often require determinations of credibility that are best determined by an ALJ. Pursuant to *N.J.A.C.* 6A:28-8.3, in determining whether to grant a motion to dismiss, the Commission shall review the facts in the light most favorable to the complainant and determine whether the allegation(s), if true, could establish a violation of the Act. Therefore, the Commission finds that probable cause did exist in this matter, and it was appropriately transmitted to the OAL for a hearing.

The Commission also notes that pursuant to *N.J.A.C.* 6A:28-6.1(a), any person may file a complaint alleging a violation of the Act. The Commission treats every complaint equally and with the same care. The ALJ noted that the Complainant in this matter was a political adversary of Respondent and remarked that “the Commission never explored Mr. Pagan’s initial motivation for bringing the complaint.” *Id.* at 3. The Act does not require the Commission to explore the motivation or intent behind the complaint. Indeed, the Commission expects that, given the nature of the Act and the board of education elections, most complaints will be filed by political adversaries. That being said, the Commission reviews each complaint carefully and without prejudice.

As for potential withdrawals by Complainant, pursuant to *N.J.A.C.* 6A:28-9.6 Complainant may submit a written request to the Commission to withdraw the complaint prior to a finding of probable cause by the Commission. The Commission enforces this regulation partly to avoid complaints being filed solely for the purpose of political animosity but also to avoid potential quid pro quo deals being made.

To this end, 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(a) and *N.J.S.A.* 18A:12-24(c), adopts the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(d), and recommends that a penalty of reprimand be imposed.

At the outset, the Commission notes that, while a Board member's simultaneous service both on the Board and on a nonprofit, including in a leadership role, is not a *per se* conflict of interest, situations or circumstances may arise based on the dual positions that result in violations of the Act. See *Advisory Opinion A07-00* (A07-00) and *Advisory Opinion A15-18* (A15-18). As MAWP does not appear to be an organization under the control of, overseen by, or otherwise managed by the Board and/or the District, the Act does not *per se* prohibit Respondent's involvement in this organization generally, or in a leadership role. Accordingly, Respondent has not engaged in a violation of the Act simply due to his membership on both the Board and as the founder/director of MAWP. Therefore, the Commission agrees with the ALJ that a violation has not occurred with respect to *N.J.S.A.* 18A:12-24(d),² and therefore, dismisses this violation.

However, the Commission finds that Respondent's conflict of interest stems from the use of his Board title and position as a means to generate clients and volunteers for his nonprofit. The fact that Respondent does not receive money from the nonprofit does not alleviate him of this conflict. In *Advisory Opinion A03-21* (A03-21), a Board member established a non-profit entity "aimed at helping 'families in crisis' with their basic needs" during the pandemic, such as through grocery gift cards, meals, supplies, or paying a household bill. The Commission advised although laudable, the Board member would violate the Act if he/she or the non-profit "directly solicited financial contributions, donations, or supplies from District families; provided services to District families; and/or collaborated with District [Parent Teacher Organization] [(PTO)]" while he/she is a Board member. Similarly, in *Advisory Opinion A04-21* (A04-21), prior to being elected to the Board, a Board member became a chapter leader for a non-profit organization that focused on the health benefits of delaying school start times for middle and high school students. The Board member received "no personal benefit (monetary or otherwise)" related to his/her membership in the non-profit. The Commission advised that not only should the Board member recuse from any matter involving the non-profit that comes before the board of education, but he/she should "not attempt to provide any information regarding the [n]on-[p]rofit to the Board, employees of the District, and/or District families." The Commission has previously advised that board members involved in non-profit organizations are prohibited from donating goods or services within the District where they serve as a Board member or collaborating with the PTO. Similarly, in this matter, Respondent should not have arranged and promoted MAWP to local students and teachers while he was also serving on the Board.

² *N.J.S.A.* 18A:12-24(d) provides "no school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties.

Pursuant to *N.J.S.A.* 18A:12-24(a), “[n]o school official or member of his immediate family shall have an interest³ in a business organization or engage in any business, transaction, or professional activity which is in substantial conflict with the proper discharge of his duties in the public interest.” In A03-21 and A04-21, the Commission made clear that Board members involved in non-profit entities are prohibited from providing services to District families or collaborating with the PTO, or providing information regarding the non-profit to the Board, employees of the District, or District families. Notably, the Commission did not advise that Board members could not be involved in those organizations, but rather a conflict would arise when those organizations become involved/associated with the District, while they are Board members. It is clear from the record that Respondent is the director of the nonprofit. It is also clear from the record that Respondent arranged and promoted MAWP to local students and teachers on several occasions. Consistent with its advice in A03-21 and A04-21, the Commission finds that while Respondent’s leadership role in the nonprofit does not, *on its own*, create a conflict for Respondent, the incidents where he arranged and promoted his nonprofit to local students and teachers within the same district where he serves as a Board member, is in substantial conflict with the proper discharge of Respondent’s duties as a Board member, even if the services provided by the nonprofit are free. Further, this arrangement, in which students and parents receive emails and flyers advising them of MAWP’s services creates a conflict with the parents, teachers, and students who may feel pressured to use and/or volunteer for this nonprofit. While the ALJ surmised that the listing was done with the approval of school officials, including the Superintendent, this does not negate the conflict that Respondent has with his nonprofit. As a Board member, who receives training, Respondent is responsible to know whether he has a conflict, and/or Respondent may consult with Board counsel to confirm any conflicts. It is not the administration’s responsibility to inform Respondent, who is responsible for overseeing the employment of the Superintendent, whether a conflict may exist. Accordingly, the involvement of Respondent’s nonprofit in the District, while he is a Board member, creates a substantial conflict for Respondent, in violation of *N.J.S.A.* 18A:12-24(a).

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 him or a member of his 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

³ “Interest” is defined as “the ownership or control of more than 10% of the profits, assets, or stock of a business but shall not include the control of assets in a labor union.” *N.J.S.A.* 18A:12-23.

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. While the ALJ states that there was not “even a scintilla of evidence that [Respondent] and/or MAWP received any financial gain from the relationship,” and therefore, a violation of subsection (c) cannot be substantiated, the Commission finds that this is the incorrect standard for subsection (c). As the above cases have held, conflicts of direct personal interest or indirect personal interest can be present despite Respondent not receiving a salary or any financial benefit from his nonprofit.

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.* In the current matter, the Commission disagrees with the ALJ that Respondent has not violated *N.J.S.A.* 18A:12-24(c). The Commission believes that a reasonable person would view Respondent as lacking objectivity or independence while performing his responsibilities as a Board member when he was also promoting his nonprofit to the parents in his community, as well as to the staff and teachers. 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 finds that a penalty of reprimand is appropriate in this matter.

V. Decision

For the aforementioned reasons, 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(a) and *N.J.S.A.* 18A:12-24(c), adopts the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(d), and recommends that a penalty of reprimand be imposed. 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 C75-18***

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(a), *N.J.S.A.* 18A: 12-24(c) and/or *N.J.S.A.* 18A:12-24(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(a) and *N.J.S.A.* 18A:12-24(c), adopting the legal conclusion that Respondent did not violate *N.J.S.A.* 18A:12-24(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