

Before the School Ethics Commission
Docket No.: C108-25
Decision on Probable Cause

Jennifer Babbitt,
Complainant

v.

Mary Kathryn O'Brien and Keith Hopson,
Shamong Township Board of Education, Burlington County,
Respondents

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on November 3, 2025,¹ by Jennifer Babbitt (Complainant), alleging that Mary Kathryn O'Brien (Respondent O'Brien) and Keith Hopson (Respondent Hopson) (collectively Respondents), members of the Shamong 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 Respondents violated *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(j) of the Code of Ethics for School Board Members (Code).

On November 24, 2025, Respondents filed a Written Statement, which included an allegation that the Complaint is frivolous. On December 12, 2025, Complainant filed a response to the allegation of frivolous filing.

The parties were notified by correspondence dated March 17, 2026, that the above-captioned matter would be discussed by the Commission at its meeting on March 24, 2026, to determine whether probable cause exists and whether the Complaint is frivolous. Following its discussion on March 24, 2026, the Commission adopted a decision at its meeting on April 28, 2026, finding that there are insufficient facts and circumstances pled in the Complaint and in the Written Statement to lead a reasonable person to believe that the Act was violated as alleged in the Complaint. The Commission also adopted a decision finding the Complaint not frivolous, and denying Respondents' request for sanctions.

¹ On October 30, 2025, Complainant filed a deficient Complaint; however, on November 3, 2025, 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.

II. Summary of the Pleadings

A. *The Complaint*

Complainant maintains that during the October 14, 2025, Board meeting, Respondents made remarks toward members of the public that were offering statements. In response to one member of the public who commented on an upcoming referendum, Respondent O'Brien said, "[y]ou do not have kids in our schools." When another community member expressed concerns at the same meeting, Respondent Hopson stated "that his concerns were 'not up for discussion' with regards to an upcoming referendum vote and also stated 'to go back and forth between you or John or anyone else who doesn't think the roof needs to be replaced, it does. It's not up for discussion.'"

Moreover, Complainant alleges that Respondent Hopson made the following statement to another community member – ". . . for six years, she approved the contract until she lost the election. She didn't have questions about Shared Services until she was off the board. It became a problem . . . I've kept my mouth shut for a while but the misinformation . . . she has stated in the past that she contacted the board and we failed to respond and she assassinated our character." Complainant argues Respondent Hopson "accused this community member of lying and spreading misinformation further insinuating that the individual was doing so in retaliation for losing re-election two years ago."

Complainant contends Respondents' "remarks were personal attacks made from the dais during an official meeting." Complainant further asserts the "community members were not public officials and were speaking within their rights during public comments."

Complainant asserts Respondents violated *N.J.S.A.* 18A:12-24.1(e), "by directly confronting and criticizing members of the public during a public meeting, [Respondents] engaged in personalized, unsanctioned conduct that exceeded the collective authority of the Board"; violated *N.J.S.A.* 18A:12-24.1(f), because Respondents "publicly responded to and personalized community comments instead of referring concerns through proper administrative channels" and violated *N.J.S.A.* 18A:12-24.1(j), because Respondents' conduct, namely "interrupting, ridiculing, and making accusatory statements toward members of the public, reflects a lack of respect for the community and for the office the members hold."

B. *Written Statement and Allegation of Frivolous Filing*

Respondents initially argue they "strongly disagree with how Complainant has 'cherry-picked' and mischaracterized various comments that they made during the course of a" Board meeting and note that the alleged facts do not constitute a violation of the Act. Respondents deny the allegations within the Complaint.

As to a violation of *N.J.S.A.* 18A:12-24.1(e), Respondents argue that Complainant has not demonstrated that they "made personal promises or took action beyond the scope of [their] duties such that, by its nature, had the potential to compromise the" Board. Moreover, Respondents argue Complainant does not "claim" that either Respondent "made any personal promises or

took any action whatsoever, let alone ‘private action.’” According to Respondents, Complainant alleges that Respondents “made some comments that she disagrees with,” and her mischaracterization is not true, and even if it were true, the comments would not violate the Act.

Regarding a violation of *N.J.S.A.* 18A:12-24.1(f) and/or *N.J.S.A.* 18A:12-24.1(j), Respondents initially argue Complainant alleged *N.J.S.A.* 18A:12-24.1(f) but quoted the language of *N.J.S.A.* 18A:12-24.1(j). Nonetheless, Respondents maintain they did not fail to refer the complaints to the Superintendent because the Superintendent was present at the meeting. Respondents further maintain they are “not precluded from addressing community concerns during the public comment portion of a Board meeting and are permitted to state their opinions about matters before the Board.”

Finally, Respondents allege the Complaint is frivolous because it “is nothing more than political theatre by Complainant.” Respondents note it was filed right before the election, in which Complainant was a candidate and it is “a clear attempt to further divide an already divided [Board] and community.” Respondents further allege the Complaint “is nothing more [than] a blatant attempt to use out-of-context statements to undermine Respondents’ credibility.”

C. Response to the Allegation of Frivolous Filing

In response to the allegation of frivolous filing, Complainant reaffirms her allegations and argues Respondents’ “characterizations are neither factual nor relevant to whether Respondents violated the [Code].” Complainant maintains Respondents did not provide any “legal basis for a frivolous complaint filing . . . and in fact, the letter admits facts that establish a prima facie violation.”

III. Analysis

This matter is before the Commission for a determination of probable cause pursuant to *N.J.A.C.* 6A:28-9.7. A finding of probable cause is not an adjudication on the merits but, rather, an initial review whereupon the Commission makes a preliminary determination as to whether the matter should proceed to an adjudication on the merits, or whether further review is not warranted. Pursuant to *N.J.A.C.* 6A:28-9.7(a), probable cause “shall be found when the facts and circumstances presented in the complaint and written statement would lead a reasonable person to believe that the Act has been violated.”

Alleged Violations of the Act

Complainant submits that Respondent violated *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(j), and these provisions of the Code provide:

e. I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

f. I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

j. I will refer all complaints to the chief administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

Pursuant to *N.J.A.C.* 6A:28-6.4(a), a violation(s) of *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(j) need to be supported by certain factual evidence, more specifically:

5. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(e) shall include evidence that Respondents made personal promises or took action beyond the scope of their duties such that, by its nature, had the potential to compromise the board.

6. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(f) shall include evidence that Respondents took action on behalf of, or at the request of, a special interest group or persons organized and voluntarily united in opinion and who adhere to a particular political party or cause; or evidence that Respondents used the schools in order to acquire some benefit for themselves, a member of their immediate family or a friend.

10. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(j) shall include evidence that Respondents acted on or attempted to resolve a complaint, or conducted an investigation or inquiry related to a complaint (i) prior to referral to the chief administrative officer, or (ii) at a time or place other than a public meeting and prior to the failure of an administrative solution.

After review, the Commission finds that there are insufficient facts and circumstances presented in the Complaint and the Written Statement to lead a reasonable person to believe that *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(j) were violated. Regarding a violation of *N.J.S.A.* 18A:12-24.1(e), Complainant does not demonstrate how Respondents made any personal promises or took any private action that could have compromised the Board when they spoke at a public Board meeting. As for a violation of *N.J.S.A.* 18A:12-24.1(f), Complainant has not offered evidence indicating that Respondents' statements were prompted by, or made on behalf of, a special interest group or persons organized and voluntarily united in opinion or how the statements are evidence that Respondents used the schools in order to acquire some benefit for themselves, a member of their immediate family or friends. Lastly, regarding a violation of *N.J.S.A.* 18A:12-24.1(j), Complainant has not demonstrated that Respondents, when they responded to comments made during public session, acted on or attempted to resolve a complaint, or conducted an investigation or inquiry related to a complaint (i) prior to referral to the chief administrative officer, or (ii) at a time or place other than a public meeting and prior to the failure of an administrative solution.

Therefore, and pursuant to *N.J.A.C.* 6A:28-9.7(b), the Commission dismisses the alleged violations of *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(j).

Notwithstanding the Commission's decision as set forth herein, and as noted in prior decisions, the Commission reminds the parties that school officials must always be cognizant of their responsibility to protect the public trust, to honor their obligation to serve the interests of the public and the Board and above all else, to serve the needs of the students of the District. As a result, there may be times when community members may offer their opinions and viewpoints about the actions and decisions of the Board, which Board members may not appreciate, or agree with. Even if those opinions and viewpoints are not in line with those of the Board, all members of the public should be treated with decency and respect.

IV. Request for Sanctions

At its meeting on March 24, 2026, the Commission considered Respondents' request that the Commission find the Complaint frivolous, and impose sanctions pursuant to *N.J.S.A.* 18A:12-29(e). Despite Respondents' argument, the Commission cannot find evidence that might show that Complainant filed the Complaint in bad faith or solely for the purpose of harassment, delay, or malicious injury. The Commission also does not have information to suggest that Complainant knew or should have known that the Complaint was without any reasonable basis in law or equity, or that it could not be supported by a good faith argument for an extension, modification or reversal of existing law. *N.J.A.C.* 6A:28-1.2. Therefore, at its meeting on April 28, 2026, the Commission adopted a decision finding the Complaint not frivolous, and denying the request for sanctions.

V. Decision

In accordance with *N.J.S.A.* 18A:12-29(b), and for the reasons detailed herein, the Commission hereby notifies Complainant and Respondents that there are insufficient facts and circumstances pled in the Complaint and in the Written Statement to lead a reasonable person to believe that the Act was violated as alleged in the Complaint and, consequently, dismisses the above-captioned matter. *N.J.A.C.* 6A:28-9.7(b). The Commission further advises the parties that, following its review, it voted to find that the Complaint is not frivolous, and to deny Respondents' request for sanctions.

The within decision is a final decision of an administrative agency and, therefore, it is appealable only to the Superior Court-Appellate Division. *See, New Jersey Court Rule 2:2-3(a)*. Under *New Jersey Court Rule 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.

Robert W. Bender, Chairperson

Mailing Date: April 28, 2026

***Resolution Adopting Decision
in Connection with C108-25***

Whereas, at its meeting on March 24, 2026, the School Ethics Commission (Commission) considered the Complaint, the Written Statement and the allegation of frivolous filing, and the response to the allegation of frivolous filing submitted in connection with the above-referenced matter; and

Whereas, at its meeting on March 24, 2026, the Commission discussed finding that the facts and circumstances presented in the Complaint and the Written Statement would not lead a reasonable person to believe that the Act was violated, and therefore, dismissing the above-captioned matter; and

Whereas, at its meeting on March 24, 2026, the Commission discussed finding the Complaint not frivolous, and denying the request for sanctions; and

Whereas, at its meeting on April 28, 2026, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on March 24, 2026; and

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

Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on April 28, 2026.

Brigid C. Martens, Director
School Ethics Commission