

Before the School Ethics Commission
Docket No.: C33-25
Decision on Probable Cause

Colby Mulkeen,
Complainant

v.

Sheila Brogan, Saurabh Dani, Muhammad Mahmoud and Mary Micale,
Ridgewood Board of Education, Bergen County,
Respondents

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on March 25, 2025, by Colby Mulkeen (Complainant), alleging that Sheila Brogan, Saurabh Dani, Muhammad Mahmoud and Mary Micale (Respondents), members of the Ridgewood 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(b)*, *N.J.S.A. 18A:12-24.1(d)*, *N.J.S.A. 18A:12-24.1(f)*, *N.J.S.A. 18A:12-24.1(g)* and *N.J.S.A. 18A:12-24.1(i)* of the Code of Ethics for School Board Members (Code).

On May 15, 2025, Respondents filed a Written Statement, and also alleged that the Complaint is frivolous. On June 3, 2025, Complainant filed a response to the allegation of frivolous filing.

The parties were notified by correspondence dated December 9, 2025, that the above-captioned matter would be discussed by the Commission at its meeting on December 16, 2025, in order to make a determination regarding probable cause and the allegation of frivolous filing. Following its discussion on December 16, 2025, the Commission adopted a decision at its meeting on January 27, 2026, finding that the Commission does not have jurisdiction over matters that do not arise under the Act. The Commission also adopted a decision finding the Complaint not frivolous, and denying Respondents' request for sanctions.

II. Summary of the Pleadings

A. *The Complaint*

According to Complainant, on June 14, 2024, his child was involved in a "Peer to Peer conflict" on the playground at the elementary school. Complainant maintains that the school social worker began an informal investigation, interviewing students and staff about the incident

that occurred on the playground. Complainant further maintains that despite his child taking responsibility for the incident and admitting to saying something to the other child (racial slur), the social worker continued to interview other students. A Harassment, Intimidation and Bullying (HIB) investigation was conducted by the district, and despite a different “interpretation” by the staff, the investigation confirmed that Complainant’s child violated the HIB policy. Complainant and his spouse appealed the HIB determination to the Board (Respondents), noting that procedures were not properly followed and indicating that there was additional evidence that needed to be reviewed. Per Complainant, the appeal was not considered by the Board. Complainant and his spouse then appealed to the New Jersey Department of Education (NJDOE), Commissioner of Education¹ and that proceeding has since concluded.

With the above in mind, Complainant asserts that on October 14, 2024, Respondents violated:

- *N.J.S.A. 18A:12-24.1(b)*, because Respondents are “influenced by the [Board’s law firm] and special interest groups within the school district, especially the Diversity, Equity, and Inclusion (DEI) special interest groups,” which “directly involve and influence disciplinary practices that have given rise-both alleged and confirmed- to the number of HIB’s [(sic)] across the district and have directly impacted” their child.
- *N.J.S.A. 18A:12-24.1(d)*, because despite being informed that “there was additional information needed to make a reasonable conclusion about the investigation process and determination,” Respondents “never examined or asked for that additional information prior to rendering [their] decision on the same night [] as” their appeal.
- *N.J.S.A. 18A:12-24.1(f)*, because Respondents “did not provide ‘due diligence’ or ‘respect the privacy’ of all students,” “they did not offer a ‘thorough and complete’ investigation” and they “opted to commit to their new structure and system and a selective set of ‘values’ rather than apply reason, logic, fairness, ethics, and established laws when ruling on a child’s involvement during a playground conflict.”
- *N.J.S.A. 18A:12-24.1(g)*, because they allowed the entire administrative team to be present for their HIB appeal, which “allows for details to be leaked and discussed throughout the school system and community.”
- *N.J.S.A. 18A:12-24.1(i)*, because the Board “can not [(sic)] ‘support and protect school personnel in proper performance of their duties’ and also ‘meet the needs of all children,’ and see that ‘schools are well run’ when the school staff is employing the legal tactics used in courtrooms to address peer to peer conflict on the playground” and ultimately, “[t]his is a conflict of interest.”

¹ On October 20, 2025, the Commissioner of Education adopted the Initial Decision finding that the Ridgewood Board of Education’s harassment, intimidation, and bullying decisions involving Complainant’s child were not arbitrary, capricious, or unreasonable.

B. *Written Statement and Allegation of Frivolous Filing*

Respondents initially argue that the Complaint is solely based on Complainant’s “disagreement with the decision by the [Board] [to uphold] the [HIB] determination involving his [child], who admitted using a racial slur against a classmate after a recess kickball game.”

To provide clarity, Respondents maintain the “underlying matter arises of two HIBs filed following” the incident at recess. First, on June 15, 2024, a teacher filed an HIB report against Complainant’s child “arising from an incident following a contentious kickball game.” Thereafter, Complainant filed an HIB report on behalf of his child, against the victim of the first HIB (filed by the teacher) alleging that the victim student first said, among other things, that Complainant’s child had “anger issues,” which is what allegedly prompted the racial slur in response. Respondents maintain that District officials conducted a thorough investigation into both HIB reports and concluded that Complainant’s child “committed HIB against the other student when uttering the racial comment.” Respondents further maintain that Complainant requested and was granted a hearing before the Board on October 14, 2024, “where he was allowed to present his case for an unlimited amount of time, and expended approximately 45 minutes.” Per Board procedures, “administrators who were involved in the investigations were present at the hearing.” Consequently, the Board voted to affirm the results of the HIB investigation.

Respondents deny any and all allegations that they violated any provisions of the Code. Respondents assert the HIB appeal hearing was conducted in accordance with normal operating procedures. Respondents further assert that the allegations regarding a breach of confidentiality by Respondents “seems to be a distortion of the [Code] and based upon a theory that the administrators will gossip regarding the matter.” Respondents argue the Complaint does not contain an “actual allegation that any of the Board members violated confidentiality regarding the matter discussed in [e]xecutive [s]ession.” Respondents maintain that they “followed all state and district procedures and reasonably concluded based on the evidence obtained through the relevant investigation, interviews with the parties and witnesses, and other considerations that the admitted conduct . . . fell within the definition of HIB” Respondents further maintain to that end, they “did not act in an arbitrary, capricious or unreasonable manner in affirming the findings of the respective investigations (which is being reviewed in other proceedings), and they certainly did not violate the [Code].”

Finally, Respondents assert that the Complaint is frivolous. According to Respondents, Complainant is entitled to appeal the HIB findings; however, “he should not be permitted to use the [Commission] as a forum to advance an apparent personal vendetta and create scenarios where a violation of the Act simply does not exist.” Further, Respondents note many of the allegations “are clearly Complainant’s personal opinion and subjective belief regarding the Administration’s purported agenda regarding Critical Race ideology and being influenced by DEI special interest groups.” Respondents contend they are “simply doing their job in accordance with statute and regulations governing HIB determinations.”

C. *Response to the Allegation of Frivolous Filing*

In response to the allegation of frivolous filing, Complainant argues his Complaint is not frivolous and he “made [his] contemplative, explicitly articulated, factually supported, thorough, and well researched, complaint.” Moreover, Complainant notes when the Board “no longer holds the respect and confidence of the public,” it is “in the interest of the public” that the Commission address “these unethical actions.”

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.”

Jurisdiction of the Commission

In reviewing the allegations in this matter, the Commission notes that its authority is limited to enforcing the Act, *N.J.S.A. 18A:12-21 et seq.*, a set of minimum ethical standards by which all school officials must abide. In this regard, the Commission has jurisdiction only over matters arising under the Act, and it may not receive, hear, or consider any matter that does not arise under the Act, *N.J.A.C. 6A:28-1.4(a)*.

With the jurisdiction of the Commission in mind, to the extent that Complainant seeks a determination from the Commission that Respondents may have violated any Board policies and/or school codes of conduct, the Commission advises that such determinations fall beyond the scope, authority, and jurisdiction of the Commission.

Additionally, with the above in mind, the Commission notes that it does not have jurisdiction over HIB investigations and does not review HIB investigations, including the process of the investigations or outcome of said investigations. See *N.J.S.A. 18A:37-14*.

In accordance with *N.J.S.A. 18A:6-9*, the NJDOE Office of Controversies and Disputes assists the Commissioner of Education in using the process established by the Administrative Procedure Act to hear and decide disputes that arise under the State school laws (which includes *N.J.S.A. 18A:37-13 et seq.*). Accordingly, Complainant was able to pursue a cause of action in the appropriate tribunal, and did so. The Commission is not the appropriate entity to adjudicate these claims, and as such, the Complaint is dismissed due to the lack of jurisdiction by the Commission.

IV. Request for Sanctions

At its meeting on December 16, 2025, 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 January 27, 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 as the Commission does not have jurisdiction over matters that do not arise under the Act, the Commission dismisses the above-captioned matter. 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: January 27, 2026

***Resolution Adopting Decision
in Connection with C33-25***

Whereas, at its meeting on December 16, 2025, the School Ethics Commission (Commission) considered the Complaint, the Written Statement and 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 December 16, 2025, the Commission discussed finding that it did not have jurisdiction over the facts and circumstances presented in the Complaint, and therefore, dismissing the above-captioned matter; and

Whereas, at its meeting on December 16, 2025, the Commission discussed finding the Complaint not frivolous, and denying the request for sanctions; and

Whereas, at its meeting on January 27, 2026, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on December 16, 2025; 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 January 27, 2026.

Brigid C. Martens, Director
School Ethics Commission