

***Before the School Ethics Commission
Docket No.: C43-26 & C52-26 (Consolidated)
Decision on Probable Cause***

**Brian Busche,
Complainant**

v.

SEC Docket No.: C43-26

**Dr. James Lavender,
Kingsway Regional Board of Education,
Gloucester County,
Respondent**

**Melissa Nussbaumer,
Complainant**

v.

SEC Docket No.: C52-26

**Dr. James Lavender,
Kingsway Regional Board of Education,
Gloucester County,
Respondent**

I. Procedural History

The above-captioned consolidated matter arises from two separate, but related Complaints filed with the School Ethics Commission (Commission) against Dr. James Lavender (Respondent Lavender), Superintendent of the Kingsway Regional Board of Education (Board), alleging that Respondent violated the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.*

In the matter docketed as C43-26, filed on April 14, 2026,¹ Brian Busche (Complainant Busche) alleges that Respondent violated *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24(e), *N.J.S.A.* 18A:12-24(f), and *N.J.S.A.* 18A:12-24(g).

In the matter docketed as C52-26, filed on April 20, 2026, Melissa Nussbaumer (Complainant Nussbaumer) alleges that Respondent violated *N.J.S.A.* 18A:12-24(c), *N.J.S.A.* 18A:12-24(e), *N.J.S.A.* 18A:12-24(f), and *N.J.S.A.* 18A:12-24(g).

¹ On April 3, 2026, Complainant Busche filed a deficient Complaint; however, on April 14, 2026, Complainant Busche 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.

By correspondence dated May 1, 2026, the parties were advised that, pursuant to its authority set forth in *N.J.A.C. 6A:28-6.6*, the Commission determined to consolidate the matters docketed as C43-26 and C52-26. Because the matters have a common Respondent, and the same general conduct/action forms the basis for the alleged violations of the Act, the Commission determined that, in the interest of efficiency, it can resolve the Complaints in one consolidated matter.

On May 12, 2026, Respondent filed a Written Statement, which included an allegation that the Complaints are frivolous. On May 13, 2026, Complainant Busche filed a response to the allegation of frivolous filing.²

At its meeting on May 26, 2026, the Commission placed the consolidated matter into abeyance pending the outcome of a related matter pending in the Office of Civil Rights. The same day, Complainant Busche advised that the related matter was no longer pending, and therefore, the consolidated matter was removed from abeyance.

The parties were notified by correspondence dated June 16, 2026, that the above-captioned matter would be discussed by the Commission at its meeting on June 23, 2026, to determine whether probable cause exists and whether the Complaint is frivolous. Following its discussion on June 23, 2026, the Commission adopted a decision at its meeting on July 28, 2026, finding the Commission does not have jurisdiction over the allegations in the Complaint as they do not arise under the Act, and administratively dismissing the above-captioned matter in accordance with its authority as set forth in *N.J.A.C. 6A:28-9.2(a)(1)*. The Commission also adopted a decision finding the Complaints not frivolous, and denying Respondent's request for sanctions.

II. Summary of the Pleadings

A. *The Complaints*

By way of background, Complainants, parents of a student, are separated/divorced and share "50/50 custody" of their child. According to Complainants, Complainant Nussbaumer is "designated as the primary residence for school purposes and has an existing court order requiring the [District] to provide transportation to her residence." Complainants maintain that Complainant Busche is "permanently disabled," and therefore, cannot safely transport their child. Complainants state that despite receiving this documentation, Respondent has repeatedly denied requests for a reasonable accommodation under Section 504 of the Rehabilitation Act (Section 504), specifically a second bus stop at Complainant Busche's residence. Complainants further state that rather than accommodate Mr. Busche, Respondent "attempted to remove the court-ordered transportation from the child's mother's residence and transfer it to Complainant [Busche's] residence, which would violate the existing court order." Further, Complainants contend that Respondent "proposed that Complainant [Busche] sign away legal rights in exchange for transportation services that should have been provided as a matter of law." According to Complainants, these "actions have been

² Complainant Nussbaumer did not file a response to the allegation of frivolous filing.

ongoing despite repeated notice, legal counsel involvement, and submission of medical documentation.”

With the above in mind, in C43-26, Complainant Busche asserted that Respondent “denied a reasonable accommodation for Complainant’s documented disability by refusing to provide a second bus stop, despite receiving medial documentation confirming his inability to transport his child,” in violation of *N.J.S.A. 18A:12-24(e)* and *N.J.S.A. 18A:12-24(f)*. Complainant Busche contends Respondent attempted to remove existing court ordered transportation and violated *N.J.S.A. 18A:12-24(c)* because he “took action beyond his authority by attempting to override or disregard a valid court order governing transportation” and violated *N.J.S.A. 18A:12-24(g)* because he “engaged in conduct that undermines public trust by attempting to circumvent legal obligations rather than comply with them.” Additionally, Complainant Busche maintains Respondent suggested Complainant Busche “sign away legal rights in exchange for transportation and violated *N.J.S.A. 18A:12-24(e)* because this “constitutes misuse of position by conditioning access to services on the waiver of legal rights,” and violated *N.J.S.A. 18A:12-24(f)* because he “failed to enforce and comply with applicable federal disability laws, including [Section 504], by refusing to provide a reasonable accommodation despite clear medical documentation.”

In C52-26, Complainant Nussbaumer asserts instead of providing Complainant Busche with a “lawful accommodation,” Respondent “chose to pursue removing or transferring [the] child’s existing bus stop from [Complainant Nussbaumer’s] residence.” Complainant Nussbaumer thus asserts Respondent violated *N.J.S.A. 18A:12-24(c)* because he “used the authority of his office in a manner inconsistent with fairness and proper administrative conduct by attempting to override an existing transportation arrangement rather than working toward a lawful solution”; violated *N.J.S.A. 18A:12-24(e)* because his “actions were contrary to the public interest because they created unnecessary instability for a student and family rather than protecting continuity and student welfare”; violated *N.J.S.A. 18A:12-24(f)* because he “failed to exercise sound judgment and proper responsibility expected of a superintendent by prolonging a matter that should have been handled reasonably and professionally” and violated *N.J.S.A. 18A:12-24(g)* because his “conduct has undermined public trust and confidence in school leadership by demonstrating disregard for fairness, transparency, and the rights of affected families.”

B. *Written Statement and Allegation of Frivolous Filing*

In his Written Statement, which includes an allegation of frivolous filing, Respondent initially argues that Complainants “rely on vague, conclusory, and unsupported allegations that [Respondent] failed to comply with federal disability law, denied a reasonable accommodation, attempted to circumvent legal obligation, created instability for a student and family, prolonged the matter, and disregarded fairness and transparency.” Respondent further argues Complainants’ disagreement with the District’s transportation policy does not equate to an ethics violation. Respondent maintains Complainants “plead facts which, if true, would not establish any violation of the [Act].”

According to Respondent, Board Policy 8600 states, “[e]ach eligible student will be assigned no more than one seat on one bus route with one assigned bus stop. The specific bus

route will be determined by the address on record.” Respondent provides, “This policy is in place to provide transportation to approximately 3,000 students to and from school.” Respondent contends that the “District does not make exceptions to providing one seat on one bus route with one bus stop” because “the provision of transportation for such a large population of minors every day is very complex and adding bus route and stop changes on different custody schedules adds a level of complication that puts the students’ safety at risk and fundamentally alters the provision of transportation.” Respondent further provides that on “September 30, 2025, Complainants sought and obtained a consent order from [a] Family Judge ... requiring Kingsway Regional Middle School to add a bus stop for [their child] to match Complainant [Busche’s] weekly parenting time. The Board was not a party to this matter [and] is not bound by this consent order.”

Respondent denies the allegations in the consolidated Complaints and further denies that he “attempted to remove court-ordered transportation” and that he “proposed the Complainant [Busche] sign away any legal rights or that he is entitled to transportation accommodations.”

C. *Response to the Allegation of Frivolous Filing*

In his response to the allegation of frivolous filing, Complainant Busche reasserts the allegations contained in the Complaint and notes this matter “should have been a straightforward accommodation process handled professionally and in good faith. Instead, the matter has been unnecessarily prolonged through shifting explanations, continued resistance, repeated requests for documentation already supplied, and attempts to redirect attention away from the actual disability accommodation request.”

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 Complainants seeks a determination from the Commission that Respondent may have violated any Board policies or laws

or regulations concerning school transportation or disabilities, the Commission advises that such determinations fall beyond the scope, authority, and jurisdiction of the Commission. The Commission also does not have the authority to review or determine whether Respondent or the District have complied with or followed any court orders.

Additionally, with the above in mind, the Commission notes that it does not have jurisdiction nor does it review complaints involving Section 504 or the Americans with Disabilities Act (ADA). Therefore, the Commission is not the appropriate entity to adjudicate those claims.

Accordingly, as the Commission is authorized, in accordance with *N.J.A.C. 6A:28-9.2(a)(1)*, to administratively dismiss a complaint for lack of jurisdiction pursuant to *N.J.A.C. 6A:28-1.4*, the Commission finds that the Complaint should be dismissed.

IV. Request for Sanctions

At its meeting on June 23, 2026, the Commission considered Respondent's request that the Commission find the Complaints frivolous, and impose sanctions pursuant to *N.J.S.A. 18A:12-29(e)*. Despite Respondent's argument, the Commission cannot find evidence that might show that Complainants filed the Complaints in bad faith or solely for the purpose of harassment, delay, or malicious injury. The Commission also does not have information to suggest that Complainants knew or should have known that the Complaints were 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 July 28, 2026, the Commission adopted a decision finding the Complaints not frivolous, and denying the request for sanctions.

V. Decision

Based on the foregoing, and pursuant to its authority as set forth in *N.J.A.C. 6A:28-9.2(a)(1)*, the Commission administratively dismisses the above-captioned matter for lack of jurisdiction pursuant to *N.J.A.C. 6A:28-1.4*.

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.

Dennis M. Roberts, Chairperson

Mailing Date: July 28, 2026

***Resolution Adopting Decision
in Connection with C43-26 and C52-26
(Consolidated)***

Whereas, at its meeting on June 23, 2026, the School Ethics Commission (Commission) considered the Complaints, 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 consolidated matter; and

Whereas, at its meeting on June 23, 2026, the Commission discussed administratively dismissing the above-captioned consolidated matter in accordance with its authority as set forth in *N.J.A.C.* 6A:28-9.2(a)(1) due to lack of jurisdiction pursuant to *N.J.A.C.* 6A:28-1.4, as the allegations in the Complaint do not arise under the Act; and

Whereas, at its meeting on July 28, 2026, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on June 23, 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.

Dennis M. Roberts, Chairperson

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

Brigid C. Martens, Director
School Ethics Commission