

***Before the School Ethics Commission***  
***Docket No.: C90-25***  
***Decision on Probable Cause***

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**Autumn Nonnenmacher,**  
***Complainant***

v.

**Tomi Carter,**  
**Freehold Borough Board of Education, Monmouth County,**  
***Respondent***

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**I. Procedural History**

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on November 9, 2025,<sup>1</sup> by Autumn Nonnenmacher (Complainant), alleging that Tomi Carter (Respondent), a member of the Freehold Borough 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 Respondent violated *N.J.S.A. 18A:12-24.1(a)*, *N.J.S.A. 18A:12-24.1(c)*, and *N.J.S.A. 18A:12-24.1(e)* of the Code of Ethics for School Board Members (Code). Respondent filed a Written Statement on December 11, 2025.

The parties were notified by correspondence dated February 17, 2026, that the above-captioned matter would be discussed by the Commission at its meeting on February 24, 2026, to determine whether probable cause exists. Following its discussion on February 24, 2026, the Commission adopted a decision at its meeting on March 24, 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.

**II. Summary of the Pleadings**

**A. *The Complaint***

Complainant provides that Respondent posted on social media using an “alias ‘Elisha Beesha,’” and “made a series of public social media postings in which she disparaged parents and students of Freehold Borough who hold conservative viewpoints.” Specifically, in response to a comment where a parent “urged unity for the sake of students,” Respondent stated, “*Hard to get along with bigots and racists.*” Complainant further provides Respondent made the

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<sup>1</sup> On September 22, 2025, Complainant filed a deficient Complaint; however, on November 9, 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*.

comments “in a public online forum accessible to community members,” the “comments were disparaging toward parents and students based on their political or social viewpoints” and her “actions created the appearance of bias and hostility inconsistent with the ethical obligations of a school board member.”

Complainant asserts Respondent violated *N.J.S.A.* 18A:12-24.1(a), because by “publicly disparaging community members, [Respondent] failed to promote a safe and respectful environment for all students and parents, contrary to her obligations as a board member”; violated *N.J.S.A.* 18A:12-24.1(c), because her “labeling of parents and students as ‘bigots and racists’ demonstrates clear bias against those holding different political or social beliefs, undermining public trust in her impartiality as a board member”; and violated *N.J.S.A.* 18A:12-24.1(e), because her “public comments compromise the credibility and integrity of the [Board] by creating an appearance of hostility and partisanship.”

## **B. *Written Statement***

Respondent initially argues the social media posts were made on a “private, membership-restricted Facebook group,” regarding a school district “separate from the one she serves.” Respondent further argues the “factual assertions in the Complaint are incorrect, the legal standards are misstated, and the conduct alleged does not fall within the scope of any subsection of the Act.”

Respondent maintains she did not “reference the Freehold Borough [Board], did not purport to speak for the Board, and did not take any action that could be attributed to her role as a trustee.” Respondent further maintains she did not make any personal promises, did not invoke the authority of the office, did not exercise oversight or supervisory power and did not engage in any conduct concerning the Freehold Borough schools.

Turning to the specific allegations, namely a violation of *N.J.S.A.* 18A:12-24.1(a), Respondent initially notes Complainant “cites an incorrect formulation” of this subsection. Respondent further notes Complainant did not allege any conduct that would fall within the scope of this subsection, and further did not provide the necessary final decision.

Regarding a violation of *N.J.S.A.* 18A:12-24.1(c), Respondent denies the allegation in its entirety and maintains that this subsection “does not regulate perceptions of personal ‘bias’; rather, it governs only a board member’s official participation in policymaking, planning appraisal, or the framing of Board policies or plans.” Respondent asserts that her “remark – made in a private, membership-restricted parent group, concerning a different school district entirely, and offered solely in her capacity as a mother – falls wholly outside the narrow realm of board action regulated by” this subsection.

As to a violation of *N.J.S.A.* 18A:12-24.1(e), Respondent contends that Complainant “cites an entirely incorrect legal standard misstating subsection (e) and omitting its core requirement that a violation must involve a personal promise or a private action taken beyond a board member’s authority.” Respondent further contends “the allegation rests on a misstatement

of the law and” does not identify any conduct that falls within the scope of this subsection and is “legally untenable,” and therefore, should be dismissed.

Finally, Respondent argues the attached screenshots demonstrate that Respondent “did not label any individual-or any group- as racist.” Respondent reaffirms that her comments did not target anyone, did not identify anyone, and did not involve Freehold Borough in any capacity.

### **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(a)*, *N.J.S.A. 18A:12-24.1(c)*, and *N.J.S.A. 18A:12-24.1(e)* and these provisions of the Code provide:

a. I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures.

c. I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

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.

Pursuant to *N.J.A.C. 6A:28-6.4(a)*, a violation(s) of *N.J.S.A. 18A:12-24.1(a)*, *N.J.S.A. 18A:12-24.1(c)*, and *N.J.S.A. 18A:12-24.1(e)* need to be supported by certain factual evidence, more specifically:

1. Factual evidence of a violation of *N.J.S.A. 18A:12-24.1(a)* shall include a copy of a final decision from any court of law or administrative agency of this State demonstrating that Respondent failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that Respondent brought about changes through illegal or unethical procedures.

3. Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(c) shall include evidence that Respondent took board action to effectuate policies and plans without consulting those affected by such policies and plans, or took action that was unrelated to Respondent's duty to (i) develop the general rules and principles that guide the management of the school district or charter school; (ii) formulate the programs and methods to effectuate the goals of the school district or charter school; or (iii) ascertain the value or liability of a policy.

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

At the outset, as the Complaint involves allegations involving a social media post, the Commission finds it necessary to set forth the standard for when Board member involvement in social media implicates the Act. The Commission has explained that in order for a social media post to be offered pursuant to official duties, there must be a sufficient nexus between the social media page and the role/membership on the Board. *Hodrinisky v. Faussette, Hasbrouck Heights Board of Education, Bergen County*, Docket No. C11-21 (August 30, 2021). As the Commission explained in *Aziz v. Nikitinsky et al., Monroe Township Board of Education, Middlesex County*, Docket No. C56-22 (October 17, 2022)

... Although social media activity by a school official can be regarded as action [I/M/O *Treston, Randolph Township Board of Education, Morris County*, Docket No. C71-18 (April 27, 2021) and *Kwapniewski v. Curioni, Lodi Board of Education, Bergen County*, Docket No. C70-17 (December 17, 2019)], it is only when certain competent and credible factual evidence is proffered therewith that a violation can be substantiated.

As a general matter, a school official does not violate the Act merely because he/she engages in social media activity. Instead, the Commission's analysis is guided by whether a reasonable member of the public could perceive that the school official is speaking in his or her official capacity or pursuant to his or her official duties. Whether a school official is perceived as speaking in his or her official capacity and pursuant to his or her official duties turns, in large part, on the content of the speech. If the speech in question has absolutely no correlation or relationship to the business of the Board and/or its operations and, therefore, could not possibly be regarded as a statement or position on behalf of the Board (as a body), a school official will not violate the Act. Conversely, if the speech in question does relate to the business of the Board and/or its operations, it is then reasonable for the reader to perceive the speech as being offered in an official capacity and pursuant to his or her official duties. Nonetheless, the filing party would still need to prove all elements of the cited provision of the Act...

Moreover, the use of a disclaimer on social media can help to clarify whether an individual is speaking in his or her official capacity and pursuant to his or her official duties; however, the presence of a disclaimer is not dispositive. ... The

failure of a school official to parrot the exact language recommended by the Commission will not mean, without more, that he or she did not use an appropriate disclaimer. In addition, if a school official utilizes an appropriate disclaimer, but the content or substance of the statements would still lead a reasonable member of the public to believe that the school official is speaking in his or her official capacity or pursuant to his or her official duties, then the disclaimer will be inadequate and of no force or effect, and the social media activity could violate the Act. See *I/M/O Treston*, Randolph Township Board of Education, Morris County, Docket No. C71-18].

In the current matter, Respondent does not appear to have identified herself as a Board member and has only made general comments that do not refer to her Board membership.

Following its review, the Commission finds that even if the facts as asserted in the Complaint are proven true by sufficient credible evidence, they would not support a finding that Respondent violated *N.J.S.A.* 18A:12-24.1(a), *N.J.S.A.* 18A:12-24.1(c) and/or *N.J.S.A.* 18A:12-24.1(e). In this matter, the Commission finds that there is an insufficient nexus between Respondent's personal Facebook page and her membership on the Board, such that a reasonable member of the public would not perceive that Respondent is speaking pursuant to her official duties. See *Hodrinksky*, Docket No. C11-21 (dismissing a Complaint when there lacked a nexus between the respondent's Facebook account and his role/membership on the Board as there was no indication that he referenced, or otherwise relies upon, his position on the Board on his social media account). The comment at issue in the present matter does not mention Respondent's membership on the Board nor does she advertise or rely upon her Board membership when publishing the social media material. In short, there is no factual evidence that her posts from her private Facebook account were made in her capacity as a member of the Board, or had the appearance of being representative of, or attributable to the Board. The fact that some people may be aware that Respondent is a Board member, as they know who she is, despite her use of an alias, does not result in her posts or comments being made in her official capacity. Further, as Respondent's social media remarks were made from her personal social media account that did not reference her Board membership, the lack of a disclaimer does not render Respondent's conduct as being offered in an official capacity and pursuant to her official duties as required by *N.J.S.A.* 18A:12-24.1(c) and *N.J.S.A.* 18A:12-24.1(e). As to a violation of *N.J.S.A.* 18A:12-24.1(a), Complainant has not presented a copy of a final decision from any court of law or administrative agency of this State demonstrating that Respondent failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that Respondent brought about changes through illegal or unethical procedures.

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(a), *N.J.S.A.* 18A:12-24.1(c), and *N.J.S.A.* 18A:12-24.1(e).

## **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 Respondent 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 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.

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Robert W. Bender, Chairperson

Mailing Date: March 24, 2026

***Resolution Adopting Decision  
in Connection with C90-25***

***Whereas***, at its meeting on February 24, 2026, the School Ethics Commission (Commission) considered the Complaint and the Written Statement submitted in connection with the above-referenced matter; and

***Whereas***, at its meeting on February 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 reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on February 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.

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Robert W. Bender, Chairperson

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on March 24, 2026.

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Brigid C. Martens, Director  
School Ethics Commission