

Before the School Ethics Commission
Docket No.: C92-25
Decision on Probable Cause

Jason Litowitz,
Complainant

v.

Lauren Fanti, Amy Lepsis and Erica Vining,
Tabernacle 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 September 23, 2025, by Jason Litowitz (Complainant), alleging that Lauren Fanti (Respondent Fanti), Amy Lepsis (Respondent Lepsis) and Erica Vining (Respondent Vining) (collectively Respondents), members of the Tabernacle 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(a)* and *N.J.S.A. 18A:12-24.1(i)* of the Code of Ethics for School Board Members (Code).

On November 21, 2025, Respondents filed a Written Statement and alleged that the Complaint is frivolous. On December 6, 2025, Complainant filed a response to the allegation of frivolous filing.

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 and whether the Complaint is frivolous. 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. 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*

Complainant provides that at a Board meeting on March 18, 2025, Respondent Fanti “moved to repeal policy 5756,” the Board’s “transgender student protection policy,” and Respondent Vining seconded the motion. However, on the advice of Board counsel, the Board

President sent the policy to the Board’s policy subcommittee “for detailed analysis.” Thereafter, on March 28, 2025, another Board member submitted an Open Public Records Act (OPRA) request “seeking records related to Board discussions about this policy.” Complainant alleges that “all three Respondents refused to search their personal devices for responsive text messages and electronic communications.” Ultimately, Complainant maintains the three Respondents did not comply with the OPRA request and, instead, chose to resign from the Board in April 2025, “rather than fulfill their legal obligations.”

With the above in mind, in Count 1, Complainant asserts Respondents violated *N.J.S.A.* 18A:12-24.1(a), because Respondents’ “willful refusal to comply with a valid OPRA request, despite receiving legal counsel and multiple opportunities to comply, constitutes a deliberate violation of their statutory duty to uphold applicable laws and regulations.”

In Count 2, Complainant maintains that he also submitted an OPRA request on April 29, 2025, seeking “records related to Respondents’ resignations and the Board’s compliance efforts regarding the [first] [r]equest.” Complainant further maintains that none of the Respondents submitted any responsive documents related to this request. Complainant asserts Respondents violated *N.J.S.A.* 18A:12-24.1(a), because their refusal to comply with a second OPRA request or their failure to certify that they did not have any responsive documents “demonstrates the continuing impact of their willful violation of transparency laws and ongoing obstruction of public access to government records that should have been provided during their tenure.”

In Count 3, Complainant contends that Respondents “resigned from the [Board] in coordinated fashion specifically to avoid complying with their legal obligations under OPRA.” Per Complainant, this “coordinated abandonment of their positions to avoid legal compliance disrupted Board operations and created financial burden” Complainant further contends Respondents violated *N.J.S.A.* 18A:12-24.1(a), because they used “resignation to avoid compliance while in office, [which] constitutes a willful violation of this statutory duty to uphold applicable laws and regulations.”

In Count 4, Complainant asserts that Respondents “failed to support and protect the Board’s Custodian of Records in the proper performance of her duties by willfully withholding responsive documents to two valid OPRA requests in violation of *N.J.S.A.* 18A:12-24.1(i).

B. *Written Statement and Allegation of Frivolous Filing*

Initially, Respondents deny that “the March 28, 2025 OPRA request is timely before this Commission.” Respondents also deny that the March 28 and April 29 OPRA requests were “valid” and/or that they refused to comply with them, and deny that New Jersey law requires that they provide information from their personal devices in response to an OPRA request. Additionally, Respondents deny that any law or policy prevented them from resigning and deny that they resigned to avoid compliance with any legal obligations. Respondents also deny that they actively obstructed and/or undermined the OPRA Custodian’s ability to comply with the request.

Respondents assert that because they have resigned from the Board and because Complainant filed this Complaint five months after they resigned the allegations are moot. Further, Respondents argue as to the alleged violations of *N.J.S.A.* 18A:12-24.1(a) in Counts 1-3, Complainant has not included a final copy of a decision, and therefore, they should be dismissed.

As to a violation of *N.J.S.A.* 18A:12-24.1(i) in Count 4, Respondents argue they did not ask the Board's OPRA Custodian not to respond to the OPRA requests. Moreover, Respondents note that Respondent Fanti "specifically stated that she 'fully expect[ed] the [OPRA Custodian would] reply appropriately with any responsive records in [her] possession.'" Further, Respondents note the OPRA custodian responded to the request in a timely manner and the request/timeliness was never challenged by the requestors, which is further evidence that Respondents did not undermine or compromise the OPRA Custodian. Therefore, Respondents aver that the Complaint fails to provide any factual evidence that Respondents "engaged in deliberate action to undermine, oppose, compromise, or harm any school personnel in the proper performance of their duties."

Finally, Respondents assert the Complaint is frivolous because Complainant has not provided any factual evidence to support his allegations, his claims arising from the March and April OPRA requests are untimely and/or meritless, and his assertions related to the OPRA Custodian's duties "are untenable, since she performed her duties by timely responding to both OPRA requests without further issue."

C. Response to Allegation of Frivolous Filing

Complainant argues he did not file this Complaint in bad faith, and Respondents' accusation that the Complaint was filed to harass them is "conclusory and categorically false." Complainant further argues that he provided "extensive documentary evidence" and the Complaint has a reasonable basis in law.

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 OPRA and/or any Board policies, the Commission advises that such determinations fall beyond the scope, authority, and jurisdiction of the Commission. Although Complainant may be able to pursue a cause of action(s) in the appropriate tribunal, the Commission is not the appropriate entity to adjudicate those claims. Accordingly, those claims are dismissed.

Alleged Untimeliness

In their Written Statement, Respondents argue that the allegations stemming from the March 28, 2025, OPRA request are time-barred as the complaint was filed more than one hundred eighty (180) days after March 28, 2025. Therefore, Respondents argue that any allegations stemming from March 28, 2025, in Count 1 and Count 4 are untimely and should be dismissed.

N.J.A.C. 6A:28-6.5(a) provides

Complaints shall be filed within 180 days of notice of the events that form the basis of the alleged violation(s). A complainant shall be deemed to be notified of events that form the basis of the alleged violation(s) when the complainant knew of the events, or when the events were made public so that one using reasonable diligence would know or should have known.

As an initial matter, the Commission notes that even though the OPRA request was submitted on March 28, 2025, Complainant would not have been aware whether Respondents refused to comply until the date the response to the OPRA request was received, and therefore, the date to determine timeliness would be the date of the OPRA response.

Nevertheless, the date of the OPRA request, March 28, 2025, is still within the 180-day limitations period, as 180-days from that date is September 24, 2025. In the present matter, the Complaint was filed on September 23, 2025, which is within time. Therefore, the Commission finds that the allegations stemming from March 28, 2025, in Counts 1 and 4 are timely.

Alleged Violations of the Act

Complainant submits that Respondents violated *N.J.S.A. 18A:12-24.1(a)* and *N.J.S.A. 18A:12-24.1(i)*, and these provisions of the Code provides:

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.

i. I will support and protect school personnel in proper performance of their duties.

N.J.S.A. 18A:12-24.1(a)

Pursuant to *N.J.A.C. 6A:28-6.4(a)*, in order to credit a violation of *N.J.S.A. 18A:12-24.1(a)*, Complainant shall include a copy of a final decision from any court of law or administrative agency of this State demonstrating that Respondents failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that Respondents brought about changes through illegal or unethical procedures.

Following its assessment, 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(a)* was violated in Counts 1-3. Complainant has not included a copy of a final decision from any court of law or administrative agency of this State demonstrating that Respondents failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that Respondents 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 violation(s) of *N.J.S.A. 18A:12-24.1(a)* in Counts 1-3.

N.J.S.A. 18A:12-24.1(i)

Pursuant to *N.J.A.C. 6A:28-6.4(a)*, factual evidence of a violation of *N.J.S.A. 18A:12-24.1(i)* shall include evidence that Respondents took deliberate action which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties.

Based on its 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(i)* was violated in Count 4. Complainant has not provided evidence that Respondents took deliberate action which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties as Complainant has not shown that Respondents violated the OPRA or withheld responsive documents in response to the OPRA requests. Accordingly, and pursuant to *N.J.A.C. 6A:28-9.7(b)*, the Commission dismisses the alleged violation of *N.J.S.A. 18A:12-24.1(i)* in Count 4.

IV. Request for Sanctions

At its meeting on February 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 March 24, 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: March 24, 2026

***Resolution Adopting Decision
in Connection with C92-25***

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

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.

Brigid C. Martens, Director
School Ethics Commission