

Before the School Ethics Commission
Docket No.: C89-24
Decision on Probable Cause

Dan Kleinman,
Complainant

v.

Beth Kotran, Glen Farbanish, John Melick, Jessica Viotto, Daniel Spanton,
Brendan McIsaac, Bryan Chapman, and Tara Marie Hintz
North Hunterdon-Voorhees Board of Education, Hunterdon County,
Respondents

I. Procedural History

The above-captioned matter arises from a Complaint that was filed with the School Ethics Commission (Commission) on November 4, 2024, by Dan Kleinman (Complainant), alleging that Beth Kotran, Glen Farbanish, John Melick, Jessica Viotto, Daniel Spanton, Brendan McIsaac, Bryan Chapman, and Tara Marie Hintz, (Respondents), members of the North Hunterdon-Voorhees 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(g) of the Code of Ethics for School Board Members (Code).

Respondent filed a Written Statement on December 4, 2024, and also alleged that the Complaint is frivolous. On December 30, 2024, Complainant filed a response to the allegation of frivolous filing.

The parties were notified by correspondence dated July 15, 2025, that the above-captioned matter would be discussed by the Commission at its meeting on July 22, 2025, in order to make a determination regarding probable cause and the allegation of frivolous filing. At its meeting on July 22, 2025, the Commission voted to table the matter. Subsequently, the parties were notified by correspondence dated August 12, 2025, that the above-captioned matter would be discussed by the Commission at its meeting on August 22, 2025, in order to make a determination regarding probable cause and the allegation of frivolous filing. Following its discussion on August 22, 2025, the Commission adopted a decision at its meeting on September 23, 2025, 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*

By way of background, Complainant provides that the librarian promoted a book and further contacted the American Library Association (ALA), in addition to other special interest groups, including EveryLibrary and the New Jersey Association of School Librarians (NJASL), who were against book banning, to support her and the District with their cause. In addition, the librarian “reactivated a network of community supporters that she built in 2015” concerning the potential book banning. The librarian “testified before the [New Jersey] Assembly in favor of ALA’s legislation,” namely arguing that the definition of obscenity “doesn’t apply in a school library because only a judge and jury can determine what’s obscenity.” Complainant alleges that “one of these special interest group sources contained a sample email to send to the [North Hunterdon Voorhees Board of Education (Board)]” as a way to help influence the Board and posted on social media encouraging people to come to the Board meeting.

According to Complainant, the Board, namely Respondents, “succumbed to pressure brought by the special interest groups and decided to keep [the book] in the school library.” Furthermore, on May 7, 2024, the librarian posted a thank you to the special interest groups “for proving yet again that NH-V stands up for the freedom to read.” Complainant maintains that the librarian, as well as the special interest groups discussed the District and its success “in keeping books on the shelf.” Per Complainant, Respondents “allowed the school librarian to host [a social media] page disparaging parents and recommending special interest groups instead.”

At a Board meeting on June 25, 2024, Complainant asserts that Respondents acknowledged the special interest groups and their role in saving the book. Complainant states that Board Member Gallo stated that, at past Board meetings she felt as though some members of the public were treated differently when they were creating disturbances in public session and “those kind of behaviors show that a support for a special interest group, which as board members were [(sic)] really not supposed to do. Now I’m not sure it was a really weird situation,” as well as stated “It’s a perception of of of supporting a special interest group.” [sic] Complainant also asserts that at the meeting, Respondents admitted “that a book review committee leaked information to the special interest group.”

With the above in mind, Complainant asserts in Count 1 that on May 7 and/or June 25, 2024, Respondents violated *N.J.S.A.* 18A:12-24.1(f), when they 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 by disregarding *N.J.S.A.* 2C:34-3; by siding with a special interest group; by censoring speech that contradicted their decision; by allowing the librarian to use the school’s website to gather support; by deleting a webpage that demonstrated the District’s support of a special interest group; by allowing the librarian to be simultaneously employed by the special interest group; by allowing the librarian to conduct business using District accounts; by signing a pledge with a special interest group and endorsing a special interest group and by leaking the pending results of the book review committee to the special interest group.

In Count 2, Complainant contends that on or before May 7, 2024, Respondents violated *N.J.S.A.* 18A:12-24.1(g), when they leaked the pending results of the book review committee to the special interest group, which allowed the special interest group to prepare their argument and provided them with an advantage.

In Count 3, Complainant asserts that on or before May 7, 2024, Respondents violated *N.J.S.A.* 18A:12-24.1(e), when Respondents Chapman and McIsaac signed a pledge with a special interest group to “never agree to remove a book from the school library,” thereby making a personal promise to a special interest group. Moreover, Respondent Viotto was endorsed by another special interest group in exchange for her agreement never to remove a book.

B. *Written Statement and Allegation of Frivolous Filing*

As background, Respondents maintain that there was a request submitted under Board Policy 9130 (Policy 9130), on February 13, 2024, by a member of the public that sought the removal of the library book in question. Per Policy 9130, a Review Committee was formed which included “six members, three members from the administration including a principal, a vice principal and health teacher, a librarian not employed by the NHV school district, a former school counselor, school administrator, parent, and a board member.” Pursuant to Policy 9130, the Committee prepared a report, which included recommendations and was distributed to the Board. At the May 7, 2024, Board meeting, the Board voted against the removal of the book. Respondents note that Respondent Viotto was not present at the May 7, 2024, meeting, and therefore, did not vote.

Respondents maintain the Complaint “involves a ‘culture war’” and was filed by a Complainant who does not live in the community. Further, Respondents argue that “the ‘political’ claims . . . that [Respondents] somehow acted unethically and violated ‘law’ by voting ‘no’ against the proposed removal of a library book with human sexuality and LGBTQ+ information from a school library, have no factual or legal basis, are all denied, and this matter should be dismissed and sanctions issued against Complainant.” Moreover, Respondents further argue “the Complaint does not properly assert violations” of the Code.

As to a violation of *N.J.S.A.* 18A:12-24.1(f), Respondents assert they did not “fail to use their independence of judgment,” by voting against the removal of a library book proposed by a member of the public, and they “did not surrender their independent judgment to special interest groups and represent their concerns instead of the concerns of the” individuals who expressed their concerns.

Respondents acknowledge that “the Book Review Committee results were, apparently, ‘leaked’ to certain special interest groups” but they state they do not know who was responsible for the leak. However, regarding a violation of *N.J.S.A.* 18A:12-24.1(g), Respondents contend that they did not leak the results, nor did Complainant provide any evidence to demonstrate that Respondents “took action to make public, reveal or disclose information that was not public.”

As to a violation of *N.J.S.A.* 18A:12-24.1(e), Respondents assert they did not make any personal promises, nor did they take any private action that would compromise the Board.

Respondents Chapman and McIsaac acknowledge they signed a pledge that states “I do not support book banning,” as well as “I support public education” and “I support our teachers.” Respondents note that the pledge does not claim or support the assertion that they have agreed to never remove a school library book. Respondents assert they did not make any “personal promises” nor take any action beyond the scope of their duties simply by signing this pledge. As for the allegation that a special interest group endorsed Respondent Viotto, Respondent Viotto states that a Facebook page called “NH-V Intellectual Freedom Fighters” made a post in 2022 to celebrate the re-election and swearing-in of Respondent Viotto. Respondent Viotto argues that this post did not constitute an endorsement, notes that she did not make any agreement with a special interest group, and adds that she did not even vote at the May 7, 2024, Board meeting.

Respondents assert the Complaint is time barred because Complainant provides that Respondents’ alleged conduct occurred at a Board meeting on May 7, 2024, and Complainant filed on November 4, 2024, which is 181 days after the filing date.

Finally, Respondents assert the Complaint is frivolous because Complainant filed the complaint shortly before the Board elections, and then “improperly publicized and ‘shared’” the Complaint on social media “in a transparent effort to politically smear Respondents, demonstrating that this matter was filed solely for political and improper purposes.” Furthermore, Respondents maintain the Complaint is lacking a good faith basis and is “factually inaccurate” and sanctions should be imposed.

C. Response to Allegation of Frivolous Filing

In response to the allegation of frivolous filing, Complainant argues the Complaint is not frivolous because he followed the statutory procedures, his assertions were clear, the Complaint was filed in good faith, it was filed in the allotted time, and his arguments are “based in law.”

D. Public Comments Offered at the Commission’s Meeting on July 22, 2025, and August 19, 2025

At the Commission’s meetings on July 22, 2025, and August 19, 2025, members of the public appeared and offered public comment regarding the above-captioned matter. More detailed information regarding the substance of those public comments can be found in the [minutes](#) from the Commission’s meetings on July 22, 2025, and August 19, 2025.

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.” The Commission notes that, despite the offering of

public comments at its meetings on July 22, 2025, and August 19, 2025, the Commission's review of this matter was limited solely to the parties' written submissions.

Alleged Untimeliness

In their Written Statement, Respondents submit that the allegations are time-barred as the vote occurred more than one hundred eighty (180) days prior to Complainant's filing, and therefore, the complaint is untimely and should be dismissed. *N.J.A.C. 6A:28-6.5(a)* provides a one hundred eighty (180) day limitation period for filing a complaint.

In the present matter, the Complaint was filed on November 3, 2024, which was within the 180-day time period of the vote on May 7, 2024, that forms the basis of this Complaint. The Commission notes that its acknowledgement letter states that the Complaint was received on November 4, 2024, as November 3, 2024, was a Sunday. Therefore, the Commission finds the Complaint to be timely.

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 and/or not followed any Board policies or *N.J.S.A. 2C:34-3*, 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 Violations of the Act

Complainant submits 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(g)*, 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.

g. I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other

matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

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

In Count 3, Complainant asserts that Respondents violated *N.J.S.A. 18A:12-24.1(e)*, when Respondents Chapman and McIsaac signed a pledge with a special interest group agreeing to never ban books. Additionally, Complainant contends that Respondent Viotto was endorsed by a special interest group in exchange for her agreement never to remove a book. Respondents Chapman and McIsaac acknowledge they signed a pledge that states “I do not support book banning,” but note that the pledge does not claim or support the assertion that they have agreed to never remove a school library book. Respondent Viotto argues that she was not endorsed by a special interest group and did not even vote on the matter.

In order to credit a violation of *N.J.S.A. 18A:12-24.1(e)*, pursuant to *N.J.A.C. 6A:28-6.4(a)*, Complainant shall include factual 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.

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)* was violated in Count 3. Complainant fails to show any personal promises that Respondents made regarding this matter. Board members do not sacrifice their right to personal opinions and beliefs when they become board members. While Respondents Chapman and McIsaac have signed a pledge in the past stating that they do not support book banning, that does not constitute a personal promise to never ban books or to prevent the school district from removing books. In addition, Respondent Viotto was not present at the meeting in question, and therefore, did not even vote. Consequently, 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(e)* in Count 3.

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

In Count 1, Complainant asserts Respondents violated *N.J.S.A. 18A:12-24.1(f)* at the May 7, 2024, Board meeting when they took action on behalf of, or at the request of, special interest groups and voted against the removal of a book. Respondents contend that they “did not surrender their independent judgment to special interest groups.”

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(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 to acquire some benefit for themselves, a member of the their immediate family or a friend.

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(f)* was violated. The Commission notes that individuals who

belong to special interest groups or follow special interest groups might naturally have similar beliefs as the special interest group, but on its own, that does not demonstrate that the individual or individuals took action, *on behalf of, or at the request of*, the special interest or political group, and as such, Complainant has not demonstrated that Respondents surrendered their independent judgment. Respondents' actions at Board meetings, and whether those actions are similar to the beliefs of an organization they support, do not establish that they took the actions at the request of the interest group. Accordingly, 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(f)* in Count 1.

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

In Count 2, Complainant contends Respondents violated *N.J.S.A. 18A:12-24.1(g)* when they leaked the pending results of the book review committee to the special interest group. Respondents assert that they themselves did not leak the results.

In order to credit a violation of *N.J.S.A. 18A:12-24.1(g)*, pursuant to *N.J.A.C. 6A:28-6.4(a)*, Complainant shall include factual evidence that Respondents took action to make public, reveal or disclose information that was not public under any laws, regulations or court orders of this State, or information that was otherwise confidential in accordance with board policies, procedures or practices. Factual evidence that Respondents violated the inaccurate information provision of *N.J.S.A. 18A:12-24.1(g)* shall include evidence that substantiates the inaccuracy of the information provided by Respondents and evidence that establishes that the inaccuracy was other than reasonable mistake or personal opinion or was not attributable to developing circumstances.

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(g)* was violated. While Respondents acknowledge that information from the book committee appeared to have been leaked, Complainant fails to provide any evidence that it was Respondents who disclosed the information. Consequently, 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(g)* in Count 2.

IV. Request for Sanctions

At its meeting on August 19, 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 September 23, 2025, 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: September 23, 2025

***Resolution Adopting Decision
in Connection with C89-24***

Whereas, at its meeting on August 19, 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 August 19, 2025, 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 August 19, 2025, the Commission discussed finding the Complaint not frivolous, and denying the request for sanctions; and

Whereas, at its meeting on September 23, 2025, the Commission reviewed and voted to approve the within decision as accurately memorializing its actions/findings from its meeting on August 19, 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 September 23, 2025.

Brigid C. Martens, Director
School Ethics Commission