

264-26

SEC Dkt. Nos. C64-22, C77-22, and C92-22

OAL Dkt. No. EEC 10551-22, EEC 00171-23, and EEC 03852-23 (consolidated)

Agency Dkt. No. 4-3/25

New Jersey Commissioner of Education

Final Decision

Shauna Williams,

Complainant,

v.

Robert Cianiulli, Jordan Hyman, Angela Penna,
Pamela Stanley, and Michael D'Aquila, Berkeley
Heights Board of Education, Union County,

Respondents.

and

Douglas Grober,

Complainant,

v.

Robert Cianiulli, Jordan Hyman, Pamela
Stanley, Michael D'Aquila, Angela Penna, and
Joy Young, Berkeley Heights Board of
Education, Union County,

Respondents.

and

In the Matter of Pamela Stanley, Berkeley
Heights Board of Education, Union County.

This matter involves an appeal of a School Ethics Commission (Commission) decision determining that appellant Pamela Stanely (Stanley) violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)*, and *N.J.S.A. 18A:12-24(f)* of the School Ethics Act (Act) and that all the appellants violated *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(e)*, and *N.J.S.A. 18A:12-24.1(f)* of the Code of Ethics for School Board Members (Code), but did not violate *N.J.S.A. 18A:12-24.1(g)*. Having carefully reviewed the Commission's decision and the record in its entirety, the Commissioner finds that the Commission's decision is supported by sufficient credible evidence, and that appellant failed to establish that the decision is arbitrary, capricious, or contrary to law. *N.J.A.C. 6A:4-4.1(a)*. The Commissioner further finds that the Commission's modification of the recommended penalty from reprimand to censure is appropriate.

This matter arises from three separate, but related, complaints filed with the Commission which allege that appellants, members of the Berkely Heights Board of Education (Board), violated the Act and the Code when they voted to authorize Stanley to file an ethics complaint against another Board member, Sai Bhargavi Akiri (Akiri) and for the Board's counsel to draft the charges. Complainants further allege that appellants, including Stanley, voted against a motion to strike the resolution which would have required Stanley to obtain separate legal counsel to pursue the claim against Akiri.

The matters were later consolidated at the Office of Administrative Law (OAL). Following cross-motions for summary decision and oral argument on the motions, the Administrative Law Judge (ALJ) issued an Initial Decision on November 7, 2024, concluding that Stanley violated *N.J.S.A. 18A:12-24(b)*, *N.J.S.A. 18A:12-24(c)* and *N.J.S.A. 18A:12-24(f)*, and that all appellants

violated *N.J.S.A. 18A:12-24.1(c)*, *N.J.S.A. 18A:12-24.1(e)* and *N.J.S.A. 18A:12-24.1(f)*.¹ The ALJ recommended a penalty of reprimand. Thereafter, on February 18, 2025, the Commission adopted the ALJ's legal conclusions with modification to find that appellants did not violate *N.J.S.A. 18A:12-24.1(g)*. The Commission also modified the recommended penalty from reprimand to censure.

In reaching its determination, the Commission found that Stanley used her position as a Board member to secure the privilege of having the Board's counsel represent her in the ethics matter that she filed. In so doing, the Commission rejected appellants' argument that Stanley filed the ethics complaint on behalf of the Board, explaining that "the Act makes clear that only '[a] person' may file an ethics complaint with the Commission." Commission Final Decision at 8, citing to *N.J.S.A. 18A:12-29(a)*. The Commission further explained that it "has consistently held the belief that whether a Board votes to approve and/or adopts a resolution authorizing a Board member to file an ethics complaint with the Commission, the fact remains that the individual, and the individual *alone*, is the named Complainant, and thus, it is his or her *own* complaint and not the Board's." *Ibid.* (emphasis in original). Given this, the Commission concluded that Stanley violated *N.J.S.A. 18A:12-24(b)* when she voted to authorize the use of taxpayer funds to provide her with representation in the ethics complaint against another duly elected Board member. See *N.J.S.A. 18A:12-24(b)* ("No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others").

¹ The Initial Decision did not address the violation of *N.J.S.A. 18A:12-24.1(g)* alleged in C64-22.

As to the violation of *N.J.S.A. 18A:12-24(c)*, the Commission found that Stanley acted in her official capacity as a Board member in a matter where she has a financial involvement when she “voted to authorize the use of Board counsel to file ethics charges in her name, without personally paying that attorney for the representation.” Commission Final Decision at 9. Pursuant to *N.J.S.A. 18A:12-24(c)*, a school official may not act in her official capacity in a matter where she has a direct or indirect financial involvement that might reasonably be expected to impair her independence of judgment or objectivity. The Commission found that a reasonable member of the public would perceive that Stanley had a conflict of interest in voting to permit the use of the Board’s counsel for a matter that she personally supported, and which was filed in her name, at no cost to her. As such, the Commission concluded that the Stanley violated *N.J.S.A. 18A:12-24(c)*.

Similarly, the Commission held that Stanley violated *N.J.S.A. 18A:12-24(f)*, which prohibits a school official from using her public office or employment, or any information, not generally available to the members of the public, which she receives or acquires in the course of and by reason of her office or employment, for the purpose of securing financial gain for herself, any member of her immediate family, or any business organization with which she is associated. The Commission found that Stanley used her position on the Board to obtain free legal representation for herself, a financial gain only available due to her position on the Board. As such, the Commission concluded that Stanley violated *N.J.S.A. 18A:12-24(f)*.

Turning to the charges against all appellants, the Commission determined that appellants engaged in actions unrelated to their duties as Board members in violation of *N.J.S.A. 18A:12-24.1(c)* when they voted to authorize the filing of ethics charges and directed the Board’s counsel

to facilitate the filing. Specifically, the Commission noted that a Board is not permitted to file ethics charges and that by doing so, appellants acted outside of their role to make policy, plan, and appraise. Concerning the violation of *N.J.S.A. 18A:12-24.1(e)*, the Commission found that appellants' actions had the potential to compromise the Board, given that they voted to initiate legal proceedings against another sitting Board member and authorized the use of the Board's counsel. Next, the Commission determined that appellants violated *N.J.S.A. 18A:12-24.1(f)* by utilizing the schools to secure for themselves the benefit of free legal representation in filing the ethics complaint. Lastly, the Commission determined that a violation of *N.J.S.A. 18A:12-24.1(g)* had not been established.

Regarding the penalty, the Commission explained that a sanction more severe than reprimand was appropriate given the public nature of appellants' actions and appellants' use of Board counsel to file charges against another Board member, an action the Board is not authorized to take. The Commission also concluded that appellants had not established the advice of counsel defense as there was no evidence that they "actually sought the advice of counsel prior to voting, let alone in advance of every action they took." *Id.* at 11. However, even if appellants had spoken with counsel beforehand, the Commission found that there were aggravating circumstances warranting censure.

On appeal, appellants argue that the Commission's factual findings and conclusions are not supported by the record. Appellants also contend that the Commission erred in recognizing the ethics complaint as Stanley's personal complaint, and not the Board's. According to appellants, the regulations do not expressly prohibit a Board member, authorized by a supermajority vote of the Board, from filing an ethics complaint on behalf of a board of

education. Moreover, appellants assert that the Commission has accepted such complaints in the past and should have dismissed the complaint if it was not in compliance with the Commission's rules.

As to the charges against Stanley, appellants contend that any benefit conferred by Stanley's votes "redounded to the benefit of the Board as a whole and not any one individual Board member." Appellant's Brief at 19. As to the charges against all appellants, appellants maintain that taking a vote to authorize the filing of the ethics complaint constituted board action, not private action, because it was directly related to their duty to develop the general rules and principles that guide the management of the school district. As such, appellants argue that they did not violate the Act or the Code. Lastly, appellants argue that the Commission erred in enhancing the recommended penalty from reprimand to censure because 1) the Board members have not previously violated the Act; 2) they relied on the advice of counsel; and 3) any violation of the Act should be deemed *de minimis* with no penalty attached.

In reply, the Commission argues that its findings and conclusions are sufficiently supported by the record. The Commission maintains that by not recusing herself, Stanley used her position to secure taxpayer-funded legal counsel for herself in an ethics complaint, a financial benefit not available to the public. Further, the Commission asserts that by voting, Stanley failed to 1) confine her board activity to policy making, 2) refuse to surrender her independent judgment, and 3) refuse to use the schools for personal gain which compromised the Board, in violation of *N.J.S.A. 18A:12-24.1(c),(e), and (f)*. Next, the Commission argues that a plain reading of the Act bars boards of education from filing ethics complaints and that this prohibition extends to individuals filing a complaint on behalf of a board in an attempt to circumvent the regulations.

As to the penalty, the Commission contends that the Commissioner has regularly imposed censure in cases where board members fail to recuse themselves from matters in which they have a financial or personal interest. The Commission further contends that the advice of counsel defense is inapplicable here because the record does not establish that Stanley relied on advice from the board's counsel when she violated the Act and the Code. Nonetheless, the Commission argues that even if Stanley received advice beforehand, she used her position to secure an unwarranted privilege, which is a gross violation of the Act warranting censure.

In their reply, Complainants argue that the invited error doctrine precludes a litigant from arguing "that a lower court acted in error when that party created the alleged error in the first place by arguing for it." Complainant's Brief at 4. Complainants contend that the doctrine bars appellants' claim that the Commission should have dismissed Stanley's complaint if it failed to comply with the regulations because Stanley's attorneys defended the entirety of her complaint against a motion to dismiss by Akiri's counsel. Moreover, complainants note that on November 22, 2022, the Commission issued a decision on the motion to dismiss wherein it cited to the Act in concluding that it cannot accept a filing on behalf of a public body, including a board of education. Complainants contend that, as of that date, appellants were on notice that a board of education could not pursue an ethics complaint and as such, appellants should have sought private counsel or withdrawn the complaint. Lastly, complainants assert that appellants used public funds for private means and therefore urge the Commissioner to affirm the censure determination.

In reply to the Commission's and complainants' opposition, appellants argue that the issue of whether an ethics complaint can be filed by a designated representative on behalf of a

board of education was not settled when the Board voted to authorize the filing against Akiri in June 2022. Appellants reiterate that 1) the record indicates that the decision to pursue ethics charges against Akiri was Board action approved by a supermajority; 2) Stanley merely served as the Board's designated representative, and therefore received no personal benefit from filing the complaint; 3) appellants did not violate the Act and Code; 4) the Commission erred in enhancing the penalty given the advice of counsel defense.

On April 14, 2025, the Commissioner granted the New Jersey Association of School Attorneys (NJASA) and NJ21st leave to participate as amicus curiae. In its brief, NJ21st argues that appellants violated the Act and the Code and therefore requests that the Commissioner affirm the Commission's determination. In contrast, NJASA disputes the notion that a school board is prohibited from designating one of its members as a complainant on its behalf to pursue an ethics complaint against another board member. Also, citing an advisory opinion from the Advisory Committee on Professional Ethics (ACPE), NJASA contends that a board of education's attorney is not conflicted from prosecuting such a complaint at the board's expense solely because the respondent serves on the board the attorney represents. See ACPE Docket No. 07-2024. Accordingly, NJASA urges the Commissioner to reject anything to the contrary in the Commission's decision.

In adjudicating appeals from decisions of the Commission, the Commissioner must "ascertain whether the decision is supported by sufficient credible evidence in the record and shall not disturb the decision unless the appellant has demonstrated that [the Commission] acted in a manner that was arbitrary, capricious, or contrary to law." *N.J.A.C. 6A:4-4.1(a)*. Upon a comprehensive review of the record, the Commissioner finds that the SEC's decision is supported

by sufficient credible evidence, and that appellant has not established that the SEC acted in a manner that was arbitrary, capricious, or contrary to law.

As an initial matter, the Commissioner notes that a plain reading of the Act bars boards of education from filing ethics complaints. Pursuant to *N.J.S.A. 18A:12-29(a)*, only a “person” may file an ethics complaint with the Commission. *See also N.J.A.C. 6A:28-6.1(a)*. A “person” means a “human being, and does not include district boards of education . . . or school districts.” *N.J.A.C. 6A:28-1.2*. The Commission held, and the Commissioner agrees, that regardless of whether a board of education votes to approve or adopts a resolution authorizing a board member to file an ethics complaint with the Commission, the individual alone is the named complainant, and it is her own complaint, not the board’s. *See, e.g., Lovett and Fussell v. Asbury, et al., Freedom Academy Charter School Bd. of Trustees, Camden County, C01-09* (April 28, 2009) (recognizing Lovett and Fussell as the complainants rather than “‘Reverend Dr. Mary Lovett and Anthony L. Fussell o/b/o Concerned Citizens for the Children of Camden,’ as was noted in the complaint” because both the “statute and code provide that complaints filed with the Commission be filed by ‘a person,’ rather than an entity, (*N.J.S.A. 18A:12-29; N.J.A.C. 6A:28-6.1(a)*)”). Thus, the Commissioner finds that the Commission was not arbitrary, capricious, or unreasonable in determining that the complaint is Stanley’s and not the Board’s.

Appellants argue that they relied on the Commission’s responses to frequently asked questions (FAQs) on the Commission’s website at the time of filing, which stated that, “[a] Board of Education as an entity may not file a complaint, although individual members of the Board may file.” Appellant’s brief at 8. Appellants further argue that it was only after Stanley filed the complaint that the Commission revised its FAQs to include that “[t]he complaint must include a

person as the complainant(s), and cannot be submitted on behalf of an organization or entity.”

Id. The Commission does not find appellants’ argument to be persuasive. Although the current version of the Commission’s responses were updated to reflect amendments to *N.J.A.C. 6A:28* that were adopted on February 6, 2023, there were no changes to the requirement that only a “person” may file an ethics complaint pursuant to *N.J.A.C. 6A:28-6.1(a)* or to the definition of “person” under *N.J.A.C. 6A:28-1.2*.² See R. 2023 d. 032, eff. March 6, 2023; 54 N.J.R. 1360(a).

Also unavailing is appellants’ reliance on *Argenziano v. Fable*, 2025 N.J. Super. Unpub. LEXIS 488 (App. Div. Mar. 28, 2025) and *Maureen Castriotta v. Bd. of Educ. of the Twp. of Roxbury, Morris Cty.*, OAK Dkt. No. EDU 9217-10, Agency Dkt. No. 139-7/10 (May 18, 2011), *rev’d on other grounds and remanded*, 427 N.J. Super. 592 (App. Div. 2012). The board member at issue in *Argenziano* used her position on the board to obtain information from other school districts about the costs of technology equipment; her conduct was unrelated to filing an ethics complaint or the use of board resources and board counsel, and the decision therefore has no bearing on the instant matter. Appellants argue that *Argenziano* demonstrates that the Commission has accepted ethics complaints filed by an individual board member on behalf of a board of education in the past, seemingly because when the decision was later appealed to the Appellate Division, the course listed the case name, in part, as “Joseph Argenziano, Bd. President, on behalf of the Northern Valley Regional High School District Board of Education.” However, neither the Commission’s decision nor the Commissioner’s decision in that matter used that case caption, and both decisions identified the complainant only as “Joseph Argenziano.” The Commissioner

² See Frequently Asked Questions About Filing and Responding to a Complaint Filed with the School Ethics Commission, <https://www.nj.gov/education/ethics/home/2%20-%20FAQs.pdf> (last visited June 30, 2026).

is unsure of why the Appellate Division later used a different case caption, and can only surmise that the caption was supplied by the respondent-appellant. In any event, the Appellate Division's use of that case name in the title of an unpublished decision cannot bind the Commission to accept ethics complaints as being filed by a board of education when the plain language of the applicable statute allows filing only by a "person."

Castriotta was not a case adjudicated by the Commission under the Act or the Code, and, therefore, it is not dispositive with regard to this matter. In *Castriotta*, a board of education issued a censure to one of its members for what the board believed were violations of the Code, and that member filed a petition of appeal with the Commissioner, alleging that the board had exceeded its authority because only the Commission has authority to find that a board member has violated the Code. The Commissioner agreed, and in doing so, rejected the board's argument that its own censure was the only way it could discipline the board member because only a "person," and not a board, can initiate a complaint before the Commission. The Commissioner stated, "It is without question that a Board could authorize its Superintendent of Schools, who fully satisfies the regulatory requirement, to file a complaint with the Commission." *Castriotta* at 6. Initially, the Commissioner stated only that a board may authorize its superintendent to file an ethics complaint; it does not comment in any way on a board's ability to authorize one of its members to do so. Additionally, regardless of whether a superintendent is authorized by the board to file a complaint, the complainant would be the superintendent individually and not the board itself. *N.J.S.A. 18A:12-29(a)*. Finally, the Commissioner did not address the use of board counsel to pursue such a complaint, a factor that was critical to the Commission's determination in the instant matter.

With regard to the charges against Stanley, “[t]he determination of whether a particular interest is sufficient to disqualify a board member is necessarily factual in nature and depends upon the circumstances in each case... Absent controlling authority, the decision in issue is dictated by a practical feel for the situation.... An actual conflict of interest is not the decisive factor, nor is ‘whether the public servant succumbs to the temptation,’ but rather whether there is a potential for conflict.” *Friends Retirement Concepts v. Bd. of Educ. of the Borough of Somerville*, 356 N.J. Super. 203, 214 (internal citations omitted). It is undisputed that Stanley voted on two matters in which she had a direct financial interest. First, Stanley voted on a resolution authorizing the use of taxpayer funds by way of payment to Board counsel for her to file an ethics complaint against another Board member. Second, Stanley voted against a motion to strike, which would have required her to obtain her own legal counsel to draft the charges and pursue the ethics complaint against another duly elected Board member. The Commissioner concurs with the Commission that in voting on these matters where she had a direct financial interest, Stanley used her position to secure the unwarranted privilege of free representation in the filing of ethics charges in violation of *N.J.S.A. 18A:12-24(b)*.

The Commissioner further concurs with the Commission that Stanley acted in her official capacity as a Board member in a matter where she has a financial involvement when she voted to authorize the use of Board counsel to file ethics charges in her name, without personally paying counsel for the representation, in violation of *N.J.S.A. 18A:12-24(c)*. Further, a reasonable member of the public would perceive that Stanley had a conflict of interest in voting to allow the use of the Board’s counsel for free in a matter filed in her name. As to *N.J.S.A. 18A:12-24(f)*, the Commissioner agrees with the Commission that Stanley used her position on the Board to retain

Board counsel free of charge – a financial gain only available to her given her position on the Board.

Turning to the charges against all appellants, pursuant to *N.J.S.A.* 18A:12-24.1(c), board members must restrict board action to “policy making, planning, and appraisal” and “frame policies and plans only after the board has consulted those who will be affected by them.” Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(e) “shall include evidence that the respondent . . . took action beyond the scope of [their] duties such that, by its nature, had the potential to compromise the district board of education . . .”. *N.J.A.C.* 6A:28-6.4(a)(5). Factual evidence of a violation of *N.J.S.A.* 18A:12-24.1(f) “shall include evidence . . . that the respondent(s) used the schools to acquire some benefit for the respondent(s), a member of the respondent’s immediate family or a friend.” *N.J.A.C.* 6A:28- 6.4(a)(6).

Here, it is undisputed that appellants voted to authorize Stanley to file an ethics complaint on behalf of the board against another Board member, and for the Board’s counsel to draft the charges. The Commissioner agrees with the Commission that voting to authorize the filing of ethics charges on behalf of the Board and directing Board counsel to facilitate the filing, when the Board is not permitted to file such complaints, is action beyond appellants’ role to make policy, plan, and appraise in violation of *N.J.S.A.* 18A:12-24.1(c). As such, appellants’ actions do not constitute “board action” as appellants claim. See *Persi v. Woksa*, 2017 N.J. *Super.* Unpub. LEXIS 625, *7 (App. Div. Mar. 10, 2017) (finding that action taken by a board member that is beyond the scope of his authority and duties as a board member meets the definition of “private action” and is sufficient to demonstrate a violation of the Code). The Commissioner notes that if appellants wished to address Akiri’s alleged misconduct, they were free to bring ethics charges

against her in their individual capacities while represented by their own legal counsel, not the Board's.³ The Commission reasonably determined that appellants' actions had the potential to compromise the Board in violation of *N.J.S.A.* 18A:12-24.1(e), and that appellants used the schools to secure a personal gain for themselves or Stanley in the form of free legal representation for the filing of the complaint in violation of *N.J.S.A.* 18A:12-24.1(f).

Because appellant has not established that the Commission acted in a manner that was arbitrary, capricious, or contrary to law, the Commissioner affirms the Commission's conclusion that Stanley violated *N.J.S.A.* 18A:12-24(b), *N.J.S.A.* 18A:12-24(c), and *N.J.S.A.* 18A:12-24(f), and that all the appellants violated *N.J.S.A.* 18A:12-24.1(c), *N.J.S.A.* 18A:12-24.1(e), and *N.J.S.A.* 18A:12-24.1(f), but did not violate *N.J.S.A.* 18A:12-24.1(g).

Regarding the recommended penalty, appellant seeks to rely on an "advice of counsel" defense to avoid or mitigate the imposition of a penalty for her violation of the Act. The Appellate Division has previously addressed charges of ethical violations by public officials acting on advice of counsel. *In re Zisa*, 385 *N.J. Super.* 188 (App. Div. 2006). When ethics charges were brought against him regarding his vote, Zisa sought to rely upon the advice of counsel defense. In examining the facts, the Appellate Division considered four prerequisites for an advice of counsel defense:

³ In its amicus brief, NJASA cited to the ACPE's Advisory Opinion (Docket No. 07-2024) in support of its claim that a board's legal counsel is not conflicted from prosecuting school ethics complaints filed by a board member, on behalf of the board, against another board member "simply because the respondent serves on the board he or she represents." NJASA Amicus Brief at 8. The Advisory Opinion applies to ethical rules governing attorneys and the instant matter deals with separate and distinct ethical rules governing school board members. Therefore, the Advisory Opinion is not relevant to the resolution of the instant matter.

1. That the approval or advice was received prior to the action being taken.
2. That the individual who offered the advice or approval relied upon possessed authority or responsibility with regard to ethical issues.
3. That the individual seeking advice or approval made a full disclosure of all pertinent facts and circumstances.
4. That the individual complies with the advice received, including any restrictions it might contain. *Ibid.*

Id. at 198-99. *See also In re Roman*, 2023 N.J. Super. Unpub. LEXIS 2379, at *14 (App. Div. Dec. 21, 2023) (“The application of the advice of counsel defense requires a fact-sensitive analysis to determine if the four prerequisites to an advice of counsel defense were met.”)

Here, the Commissioner finds that the evidence in the record fails to establish that appellants satisfied the *Zisa* prerequisites. The third prerequisite makes clear that the individual seeking to invoke the advice of counsel defense must have affirmatively sought “advice or approval.” *Id.* at 199. This matter is readily distinguishable from *Roman* and *Zisa* because it has not been established that Stanley and the appellants sought the advice of counsel prior to voting on either matter. Further, as the Commission correctly notes, the record does not indicate that any appellant “made a full disclosure of all pertinent facts and circumstances” in pursuit of legal advice at the June 16, 2022, meeting. *Ibid.* Consequently, appellants have not established the prerequisites for an advice of counsel defense.

The Commissioner agrees with the Commission that even if appellants did seek counsel before voting on both matters, censure would still be the appropriate penalty given the public nature of appellants’ actions. Voting in public to allow the filing of an ethics complaint against another Board member, and directing Board counsel to handle the matter, “deserves a heightened and public remedy of censure, not the private remedy.” Final Decision, at 11.

Moreover, the Commissioner finds persuasive the Commission's argument that censure is appropriate given Stanley's failure to recuse herself from motions in which she had a direct financial interest and actively voting to confer a benefit for herself. By failing to adhere to her ethical obligations as a Board member, Stanley used public funds in furtherance of private means.

Accordingly, appellants are hereby censured as school officials found to have violated the School Ethics Act.⁴



COMMISSIONER OF EDUCATION

Date of Decision: July 22, 2026
Date of Mailing: July 22, 2026

⁴ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J. Ct.R. 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.