
Superior Court of New Jersey

Appellate Division

Docket No. A-002006-21T1

ELISABETH SCHWARTZ,	:	ON APPEAL FROM A
	:	FINAL AGENCY DECISION
<i>Complainant-Appellant,</i>	:	OF THE SCHOOL ETHICS
	:	COMMISSION
vs.	:	
	:	DOCKET NO.: C40-21
FAHIM ABEDRABBO,	:	
FERAS AWWAD, CLIFTON	:	
BOARD OF EDUCATION	:	
and PASSAIC COUNTY,	:	
	:	
<i>Respondents-Respondents.</i>	:	
	:	

REPLY BRIEF ON BEHALF OF COMPLAINANT-APPELLANT

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PRELIMINARY STATEMENT¹

This Court must decide whether the School Ethics Commission ("Commission") erred in summarily dismissing a complaint (as amended, the "Complaint") that Appellant Elisabeth Schwartz filed against Respondents Fahim Abedrabbo and Feras Awwad, two members of the Clifton Public School District's ("District") Board of Education ("Board"). In her Complaint, Ms. Schwartz alleged that Respondents violated, *inter alia*, N.J.S.A. 18A:12-24.1(e), by making anti-Israel and antisemitic statements during the "commissioner comments" portion of the Board's virtual meeting on May 20, 2021.

Respondents' arguments in favor of upholding the Commission's decision actually support Ms. Schwartz's arguments that the Commission's decision was wrong and should be reversed. For example, Respondents argue that judicial review is limited, but this case does not involve any particular technical or specialized expertise that would require this Court to defer to the Commission's decision. This case simply involves interpreting N.J.S.A. 18A:12-24.1(e) and determining whether Ms. Schwartz alleged sufficient facts to withstand a motion to dismiss that

¹ Any terms that were defined in the Brief that Ms. Schwartz filed with this Court on May 23, 2022 ("Initial Brief") will continue to have the same meaning in this Brief. Like the Initial Brief, this Brief will reference the facts to the appropriate pages of Ms. Schwartz's Appendix. For example, a reference to page 1 of the Appendix will be abbreviated as 1a, page 2 as 2a, etc. The Brief that Respondents filed with this Court on July 1, 2022, is referred to herein as "Respondents' Brief."

claim. She did - and even if she did not, the Commission erred in failing to construe the Complaint generously and liberally, and at least giving Ms. Schwartz the opportunity to amend the Complaint, instead of dismissing it.

The Commission's decision was based solely on its finding that "the Board did not take any action following Respondents' comments." 6a. But as the Commission's prior decisions demonstrate - including those cited in Respondents' Brief - no such action was required. Ms. Schwartz was only required to show in her Complaint that Respondents took private action - *i.e.*, action beyond the scope of their duties - that had the *potential* to compromise the Board. She did so, alleging that Respondents used the official podiums afforded to them at a Board meeting to attack the Jewish state with antisemitic statements unrelated to their Board duties and responsibilities. They took this private action with impeccable timing, purposefully attacking Israel at a "flashpoint," to use Respondents' own term - a time of soaring antisemitism, stoked by anti-Israel rhetoric in the U.S. and particularly in New Jersey.

Respondents failed to make it clear, *before* they launched their bigoted attacks, that they were speaking as private citizens only and not in their capacity as Board members, and that their anti-Israel, antisemitic comments represented their own personal opinions and not those of the Board or its individual members. As the Complaint showed, Respondents' comments caused doubt and

confusion, leading members of the public to believe that Respondents were speaking as Board members, thus potentially compromising the public trust in the Board, in violation of N.J.S.A. 18A:12-24.1(e).

The Commission should have reached that conclusion after a hearing on the Complaint, instead of summarily dismissing it. At a minimum, the Commission should have read the Complaint broadly and liberally and given Ms. Schwartz an opportunity to amend her claims if necessary. Either way, the Commission's summary dismissal was wrong and should be reversed.

PROCEDURAL HISTORY

Appellant relies on the Procedural History section of the Initial Brief.

STATEMENT OF FACTS

Appellant relies on the Statement of Facts section of the Initial Brief.

LEGAL ARGUMENT

I. This Court Owes No Deference to the Commission's Decision (1a)

Respondents devote several pages of their Brief arguing that this Court's role is simply to rubber stamp the Commission's summary dismissal of Ms. Schwartz's Complaint. They claim that judicial review of the Commission's decision is limited and that an appellate court must defer to the Commission's "expertise and

superior knowledge of a particular field.” Respondents’ Brief at 9-12 (citations omitted).

It is true that this Court should generally be “mindful” of the Commission’s “day-to-day role in interpreting statutes ‘within its implementing and enforcing responsibility.’” Fisher v. Hamilton, Docket No. A-4441-11T3, 2013 N.J. Super. Unpub., LEXIS 1773 at *5 (App. Div. July 17, 2013) (citations omitted). “Deference to an agency’s interpretation is particularly compelling when the agency’s interpretation is grounded in its technical or specialized expertise.” L.C. v. Board of Review, Dept. of Labor, 439 N.J. Super. 581, 591 (App. Div. 2015) (citations omitted).

However, when “technical or specialized expertise is not implicated” – which is the case here – “and the issue is one of statutory interpretation,” the Court “owe[s] no deference to the agency.” A.Z. ex rel. B.Z. v. Higher Educ. Students Assistance Auth., 427 N.J. Super. 389, 394 (App. Div. 2012). See also Mayflower Sec. Co. v. Bureau of Sec., 64 N.J. 85, 93 (1973) (“An appellate tribunal is . . . in no way bound by the agency’s interpretation of a statute or its determination of a strictly legal issue.”). This Court’s review of the legal questions raised here is thus *de novo*. Fisher v. Hamilton, at *5 (citing In re State Bd. of Educ.’s Denial of Petition to Adopt, 422 N.J. Super. 521, 530 (App. Div. 2011)).

II. The Commission Erred in Concluding that Board Action Following Respondents' Comments was Required to Establish a Violation of N.J.S.A. 18A:12-24.1(e) (1a)

To plead a violation of N.J.S.A. 18A:12-24.1(e), Ms. Schwartz's Complaint must allege that Respondents "took action beyond the scope of their duties such that, by its nature, had the potential to compromise the board." N.J.A.C. 6A:28-6.4(a)(5). Though it recognized that Respondents' comments were "highly controversial" (6a), and were "likely perceived as offensive, and hurtful to members of the District's Jewish community" (5a), the Commission nevertheless summarily dismissed Ms. Schwartz's claim under N.J.S.A. 18A:12-24.1(e) because "the Board did not take any action following Respondents' comments." (6a.)

But the issue here is not whether the Board took action. It is whether Respondents, while sitting on the Board's virtual dais at a Board meeting, made offensive, antisemitic statements beyond the scope of their duties and responsibilities, thereby potentially compromising the Board, and the public's trust and confidence in the Board, in violation of N.J.S.A. 18A:12-24.1(e). Board action following Respondents' comments was not required.

It was the Board's *inaction* that exacerbated Respondents' ethical misconduct and contributed to potentially compromising the public trust in violation of N.J.S.A. 18A:12-24.1(e). Only after each Respondent completed his anti-Israel, antisemitic tirade did Board counsel mechanically ask each to confirm that these were his own personal comments - as if an after-the-fact, rote confirmation could possibly undo the damage that Respondents had already caused.

Not a single Board member spoke up to question or condemn Respondents' despicable comments. The Board's silence and inaction thus aggravated the impression that the Board and/or its individual members endorsed Respondents' bigoted comments, making it even more likely that the Board was compromised, in violation of the statute.

III. The Commission Erred in Failing to Conclude that Respondents Engaged in Private Action Potentially Compromising the Board, in Violation of N.J.S.A. 18A:12-24.1(e) (1a)

As the statute's express language makes clear, and as the Commission has consistently concluded in other similar cases, a complainant must simply allege that Respondents took private action - namely, action beyond the scope of their duties that had the potential to compromise the Board. See, e.g., In re Leonard, Docket Nos. C56-19 and C57-19 (Consolidated) at 5 (Sch. Ethics Comm'n Nov 23, 2021). Ms. Schwartz more than sufficiently made that allegation in her Complaint.

The Commission failed even to address whether Respondents engaged in "private action" within the meaning of the law - yet another error that requires this Court to reverse the Commission's decision and reinstate Ms. Schwartz's Complaint. Respondents, however, contend that they did not engage in private action, claiming that: (1) Ms. Schwartz relied solely on unpublished opinions that define "private action" as "an action taken beyond the scope of a Board member's authority and duties"; and (2) the

"mere act of communicating" cannot constitute private action within the meaning of the statute. Respondents' Brief at 13-14.

Respondents are wrong on both counts. First, the Commission itself has consistently interpreted "private action" to mean action taken that is "beyond the scope of the duties and responsibilities" of a board member. Indeed, the Commission decisions that Respondents cite in their Brief recognized this as the meaning of "private action." See Respondents' Brief at 14-15, citing Jacobs v. Delbury, Sussex Wantage Regional Board of Education, Docket No. C44-07 at 5 (Sch. Ethics Comm'n Nov. 25, 2008); Yafet v. Smith, Hillside Board of Education, Union County, Docket No. C24-07 at 13 (Sch. Ethics Comm'n Oct. 27, 2008); In re Eileen Quinn, Winfield Board of Education, Union County, Docket No. C45-04 at 3 (Sch. Ethics Comm'n Feb. 7, 2005); In re Grimsley, Rosell Board of Education, Union County, Docket No. C21-04 at 9 (Sch. Ethics Comm'n Jan. 22, 2008).

Based on this well-established meaning, Respondents engaged in private action at the May 20, 2021 Board meeting. It was beyond the scope of their duties and responsibilities to deliver tirades at the Board meeting, which singled out and condemned Israel; denied the Jewish people's 4000-year connection to the Land of Israel by accusing Israel of "colonialism" and "occupation"; and promoted demonizing lies that the Jewish state is engaging in "apartheid" and "ethnic cleansing," training U.S. law enforcement officers to use "abusive tactics" against minorities, and caused

the death of George Floyd. It was beyond the scope of Abedrabbo's duties and responsibilities to recount being "detained" and "strip-searched" in Israel (while omitting why Israel has no choice but to employ security measures to protect its citizens from unrelenting violence and terrorism, as any other country should and would do). Respondents' comments had nothing to do with the business of the Board or the District. Their comments amounted to private action that potentially compromised the Board in violation of N.J.S.A. 18A:12-24.1(e).

Respondents' second argument holds no weight either. Relying on the Commission's decision in Schleifstein v. MacKay, Randolph Township Board of Education, Morris County, Docket No. C40-20 (Sch. Ethics Comm'n Nov. 24, 2020), Respondents claim that "the mere act of communicating does not equate with taking action for the purposes of determining whether a violation of N.J.S.A. 18A:12-24.1(e) has occurred." Respondents' Brief at 14.

But that misstates the basis for the Commission's decision in Schleifstein. The board member in that case allegedly violated N.J.S.A. 18A:12-24.1(e) when, during the portion of a school board meeting reserved solely for board comments, she "lambasted" a group of parents in the school district for criticizing prior board actions. Id. at 2.

The Commission in Schleifstein dismissed the claim against the board member under N.J.S.A. 18A:12-24.1(e) because "there is nothing which prohibits a member of the Board from making remarks,

even if of a personal nature, *about matters related to the business of the Board.*" Id. at 11 (emphasis added). Indeed, "the critical fact" for the Commission was that the board member's "remarks directly touched upon an issue impacting the Board." Id.

That "critical fact" is missing in the present case. Respondents' comments were gratuitous, self-serving and completely unrelated to the business of the Board. Their statements constituted private action that potentially compromised the Board in violation of N.J.S.A. 18A:12-24.1(e).

Respondents also contend that "to constitute a private action that could potentially compromise a board, complainants must demonstrate facts indicative of an actual, as opposed to speculative or improbable, threat to the well-being of the board." Respondents' Brief at 14. This contention, which conveniently ignores the actual language of the statute, is baseless, too.

The very language of N.J.S.A. 18A:12-24.1(e) makes it clear that Ms. Schwartz need only have alleged that Respondents' comments "may" compromise the Board - *i.e.*, they had the potential to compromise the Board. The law does not require a showing that the Board was actually threatened or compromised.

Ms. Schwartz's Complaint sufficiently alleged that the Board was potentially compromised. It referenced a letter from the Clifton Jewish Community Council expressing shock over Respondents' "antisemitic rhetoric" at a "regularly scheduled" Board meeting. (70a.) The Complaint also alleged that

Respondents' hateful comments had potentially discouraged Jewish members of the public to engage with the Board, given its seeming bias. At a subsequent Board meeting on August 5, 2021, a Jewish resident spoke up and made that clear when he stated, "Am I even welcome here? I mean I'm Jewish so should I even be here?" (71a.)

Respondents rely on Board Policy No. 0146² to support their argument that there are no limits on what they as Board members can say. But neither Board Policy No. 0146 nor any other Board policy can insulate Respondents from liability under the School Ethics Act. Respondents do not take their own argument seriously because they themselves acknowledge that "a Board member's comments could prejudice the Board as a political body." Respondents' Brief at 15. In the two cases that Respondents cited, the Commission found that the school board members at issue violated the law based on their comments and should be sanctioned.

In Grimsley, at the conclusion of a school board meeting, a board member engaged in a "heated and intense" exchange with the superintendent concerning the superintendent's contract, which had just been the subject of a board vote at the meeting.³ Because the complainant needed to show only that the board member's conduct "may compromise the board," the Commission concluded that the

² Board Policy No. 0146 - Board Member Authority, provides, in relevant part, that "Board members are entitled to express themselves publicly on any matter, including issues involving the Board and the school district." (247a.)

³ The Commission in Grimsley also found that the school board member physically engaged with the superintendent and pushed aside another board member. See Grimsley, at 9.

complainant demonstrated that the board member violated N.J.S.A. 18A:12-24.1(e) and recommended that the board member be censured. Id. at 10-11 (emphasis in original).

In In re Talty, Brick Township Board of Education, Ocean County, Docket No. C84-06 (Sch. Ethics Comm'n Mar. 1, 2006) - the other case cited by Respondents - the Commission concluded that a school board member violated N.J.S.A. 18A:12-24.1(e) after she confronted a member of the public in a verbal and physical manner regarding his comments during the public comment session of a board meeting. Id. at 2. The Commissioner of Education endorsed the Commission's recommendation that the board member be suspended because her conduct "*could* have deleterious effects" on members of the public. Id. at 5 (emphasis added).

These decisions upon which Respondents rely thus actually support Ms. Schwartz's argument that the Commission erred in summarily dismissing her Complaint. Respondents' anti-Israel and antisemitic comments could - and did - have a deleterious effect on Jewish members of the community and potentially compromised the public trust in violation of the law.

IV. The Commission's Decision Cannot Be Reconciled with Its Decision Censuring a School Board Member for Unethical Conduct that Posed Far Less Risk to the Public Trust than Respondents' Conduct (1a)

Respondents try to argue that the Commission's decision here is consistent with its decision in Leonard, a case which also addressed whether a school board member's offensive comments potentially compromised the board in violation of N.J.S.A. 18A:12-

24.1(e). In Leonard, the board member's comments - which "suggest[ed] the presence of negative attitudes toward Muslim faith and culture" - were posted on his personal, private Facebook page. See Leonard, at 4. Rather than summarily dismiss the claim under N.J.S.A. 18A:12-24.1(e) as the Commission did here, the Commission in Leonard concluded that the board member violated the law and should be censured, even though he was no longer a member of the board. Id. at 6-7.

In their Brief, Respondents set up a straw man and criticize Ms. Schwartz for allegedly suggesting that their comments "were somehow more dangerous" than the comments made by the board member in Leonard. Respondents' Brief at 17-18. The argument and criticism are baseless; Ms. Schwartz never compared the comments in the two cases. Instead, she focused on the cases' respective facts and circumstances to show that the risk to the public trust was far greater here - where the Commission summarily dismissed her Complaint - than the risk posed in Leonard, which resulted in censure. The board member in Leonard posted his comments on his personal, private Facebook account, where "he did not intend or expect his posts to be publicized beyond those permitted to view the post under his privacy settings." Leonard, at 4. By contrast, Respondents did not make their anti-Israel and antisemitic comments privately. They deliberately made them publicly at a Board meeting, cloaked in the mantle of their official positions on the Board.

Furthermore, the board member in Leonard had a disclaimer on his Facebook account's profile page, noting that the views he expressed were his own and not those of the Board. Id. By contrast, Respondents in the present case delivered long and hateful speeches attacking the Jewish state, without ever making it clear that their comments were their own personal opinions and not those of the Board.

Moreover, the board in Leonard took numerous steps to condemn and repudiate the board member's offensive comments and thereby preserve the public's trust and confidence. The board president denounced the board member's Facebook posts, rescinded his appointment to a special committee, and encouraged the board member to resign from the board. Id. at 3. Furthermore, the board attorneys issued a letter condemning the board member's social media posts as "racist, incendiary and offensive," and described the legal process for addressing alleged ethics violations. Id.

All of this was a far cry from Board counsel's rote response to Respondents' antisemitic comments at a public Board meeting, and from the Board's shameful failure to condemn Respondents' comments and make it clear that Respondents were not speaking for the Board. Unlike the board in Leonard, the Board's silence in the present case further compromised the public trust by sending a message to the public that the Board endorsed Respondents' offensive and bigoted comments.

Yet in Leonard, the Commission not only found that the board member violated N.J.S.A. 18A:12-24.1(e), but also that he deserved to be censured, even though he was no longer a board member. That determination cannot be squared with the Commission's summary dismissal of Ms. Schwartz's Complaint, which alleged a far greater risk to the public's trust and confidence in the Board.

V. Respondents Failed to Make It Clear that Their Comments were Made in Their Capacity as Private Citizens and Represented Their Personal Opinions Only, and Not Those of the Board or Its Individual Members, Thereby Compromising the Public Trust (1a)

Respondents do not deny that Awwad failed to preface his comments with a clear disclaimer that he was speaking in his capacity as a private citizen, not in his capacity as a Board member, and that his comments represented his own personal opinions. Nor did he issue any kind of disclaimer at any point during his speech attacking Israel. It was not until after he completed his attack that Board counsel asked him - in a robotic, cursory way - to confirm that these were his personal comments and not those of the Board, which he did. No other Board member disavowed the comments.

Abedrabbo's disclaimer was no better. To the contrary, it evidenced an intentional effort to cloak his comments in his official position as a Board member. After his speech was underway, Abedrabbo repeated three times that these were "my prayers," followed by, "Again, these are commissioner comments," thus creating the impression that he was speaking on the Board's

behalf, not expressing his own personal opinion.⁴ Toward the end of his speech, Abedrabbo stated, "These are my commissioner comments. . . These are my words."⁵ Then, when he concluded, at the again perfunctory prodding of Board counsel, Abedrabbo angrily stated that "these are my comments, my commissioner comments."⁶ He, like Awwad, never made it clear that he was speaking solely in his capacity as a private citizen and not as a Board member, and that his statements were not representative of the Board or its individual members.

The Commission has made it clear that school board members must issue an *effective* disclaimer, and even when they do so, they still do not have *carte blanche* to say whatever they like.⁷ In Melnyk v. Fiel, Docket No. C64-18 (Sch. Ethics Comm'n Mar. 26, 2019), the Commission considered whether a school board member

⁴ See Abedrabbo's comments at <https://www.youtube.com/watch?v=VkdXZoOaHZA>, starting at 2:30:10.

⁵ See <https://www.youtube.com/watch?v=VkdXZoOaHZA>, starting at 2:33:32.

⁶ See <https://www.youtube.com/watch?v=VkdXZoOaHZA>, starting at 2:33:42.

⁷ Respondent Abedrabbo apparently believes - erroneously - that he *does* have *carte blanche*, including on his personal Facebook page, despite his ethical obligations under the law. Concluding his speech at the May 20, 2021 Board meeting, he complained about concerns being raised about his social media posts and responded to those concerns with defiance: "Guess what . . . you can't stop me. You can't stop me. It is my freedom, my First Amendment. I will speak. I have stories. Nobody can stop me." See <https://www.youtube.com/watch?v=VkdXZoOaHZA> at 2:33:08.

violated the School Ethics Act (not the provision at issue here) based on her social media posts, and indicated what an acceptable disclaimer might look like:

A prominent disclaimer (caps/bold), such as, "THE FOLLOWING STATEMENTS ARE MADE IN MY CAPACITY AS A PRIVATE CITIZEN, AND NOT IN MY CAPACITY AS A BOARD MEMBER. THESE STATEMENTS ARE ALSO NOT REPRESENTATIVE OF THE BOARD OR ITS INDIVIDUAL MEMBERS, AND SOLELY REPRESENT MY OWN PERSONAL OPINIONS."

Id. at 4 n.1. Even if a school board member uses an appropriate disclaimer, the Commission noted that "the substance of a post/statement can, nevertheless, render the disclaimer meaningless." Id. Indeed, that was the case in Leonard where the board member made his offending statements on his personal, private Facebook page, which included a disclaimer that did not save him from being censured.

In In re Treston, Docket No. C71-18 (Sch. Ethics Comm'n Apr. 27, 2021), the Commission considered the sufficiency of a school board member's disclaimer in an op-ed, which stated, "The author is writing this endorsement on his own personal behalf. His opinions are his own." Id. at 2. The Administrative Law Judge (ALJ) concluded that the board member's disclaimer was insufficient, and that his statements in the op-ed were made outside the scope of his duties as a board member and had the potential to compromise the board, in violation of N.J.S.A. 18A:12-24.1(e). Id. at 3.

In adopting the ALJ's conclusions, the Commission emphasized the ALJ's words, which should resonate in this case:

The purpose of a disclaimer is to prevent board members from compromising the local boards of education by *causing reasonable confusion among the public whether the board member's statement is made as a private citizen or as a public official. . . .* Having a disclaimer, even if it appears to be sufficient, may not be enough if the substance of the statements *may reasonably lead the public to believe the official is speaking, and representing themselves as a member of the board.*

Id. at 6-7 (emphasis added).

Here, the Commission erred in failing even to consider whether Respondents issued a sufficient disclaimer. As the record shows, Respondents did not do so, never making it clear that they were speaking as private citizens, not as public officials. They thus caused confusion and led the public to believe that they were speaking for the Board, potentially compromising the public trust in violation of N.J.S.A. 18A:12-24.1(e).

VI. Respondents' Comments Were Anti-Israel and Antisemitic and Compromised Public Trust in the Board (1a)

Respondents argue that nothing they said at the May 20, 2021 Board meeting was "even remotely anti-Semitic" because they "made no mention of the Jewish faith." Respondents' Brief at 8. That Respondents would contend that a statement cannot be antisemitic if it does not specifically mention Judaism is truly breathtaking. As presumably educated and informed elected officials in a state that has seen a horrifying amount of antisemitism,⁸ Respondents

⁸ As Ms. Schwartz noted in her Initial Brief, the Anti-Defamation League's latest Annual Audit of Antisemitic Incidents (for 2021) showed that New Jersey had the second highest number of recorded antisemitic incidents in the U.S., second only to New York. See Initial Brief at 40 n.27. In 2021, there were 370 incidents in New Jersey, a record high and a 25% increase from 2020. See ADL

should surely know that comments can be antisemitic without containing any reference to Jews or Judaism.

As the late Rabbi Lord Jonathan Sacks so eloquently described it, antisemitism is a "mutating virus": "Once Jews were hated because of their religion. Then they were hated because of their race. Now they are hated because of their nation state" -- Israel. Rabbi Lord Jonathan Sacks, *The Mutating Virus: Understanding Antisemitism*, The Times of Israel, Sept. 29, 2016, at <https://blogs.timesofisrael.com/the-mutating-virus-understanding-antisemitism/>. In short, anti-Zionism and anti-Israelism can be a mask for antisemitism.

Respondents should also know that hatred of Israel incites hatred of Jews. Antisemitic incidents in New Jersey related to Israel or Zionism increased by 35% in 2021. See ADL New York/New Jersey Press Release at n.8. Significantly, the ADL documented the highest number of antisemitic incidents in May 2021, precisely when Israel was fighting a defensive war against the U.S.-designated terrorist group Hamas in Gaza. Id.

This was also exactly the time that Respondents deliberately chose to use their official podiums at a Board meeting to single out and demonize Israel with falsehoods (with claims of "apartheid" and "ethnic cleansing" against Israel), deny the Jewish people's right to self-determination (with claims that Israel is a

New York/New Jersey Press Release, *ADL: Antisemitic Incidents in New Jersey Reach Highest Levels Ever Recorded in 2021*, April 26, 2022, at <https://nynj.adl.org/news/2021-audit-nj/>.

"colonialist" state and "occupying" another's land), and blame Israel for abuses by U.S. police forces and other alleged wrongs. Respondents knew then and know now that they made their comments at what they themselves described as a "flashpoint." Respondents' Brief at 5. Yet irresponsibly and in violation of their obligations under the statute, Respondents purposefully fanned the flames during a crisis, sowed divisiveness in the community, incited hatred of Israel and Jews, and caused Jewish members of the community to question their confidence and trust in the Board.

That is the issue here. It is not, as Respondents speciously contend, one's position on the Middle East conflict. Respondents accuse Ms. Schwartz of "assembl[ing] a brief primarily designed to show her perspective as a Jewish American of the Israel-Palestine conflict." Respondents' Brief at 22. Their accusation is offensive and wrong.

Respondents are entitled to their views on the Palestinian Arab-Israeli conflict, no matter how bigoted and factually baseless those views are. What Respondents are not entitled to do - and are legally prohibited from doing - is to use their official positions on the Board for their own private purposes, by hijacking a Board meeting and, while seated on the Board dais, making vile and incendiary antisemitic comments having nothing to do with their Board duties and responsibilities. Doing so compromised the Board and the public trust in the Board.

Ms. Schwartz exercised her incontrovertible right to seek relief under the School Ethics Act and to have the Commission hold

Respondents accountable for violating their ethical obligations.⁹
This Court should reverse the Commission's decision.

CONCLUSION

For the foregoing reasons, Ms. Schwartz requests that this Court reverse the Commission's summary dismissal of her Complaint.

Respectfully submitted,

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⁹ N.J.S.A. 6A:28-6.1(a) specifically provides that "any person may file a complaint with the Commission alleging a violation of the [School Ethics] Act" (emphasis added). That plainly includes Ms. Schwartz. Yet Respondents continue to harp on the fact that Ms. Schwartz is not a Clifton resident, does not have children attending school in the District, and is not an employee of the Board. Respondents' Brief at 8-9. Employing a classic antisemitic trope, they paint Ms. Schwartz as an outsider who is not entitled to exercise the same legal rights as everyone else, even though the law plainly recognizes that she, like any other person and member of the public, has a stake in the enforcement of the School Ethics Act and in ensuring that violators like Respondents are held accountable for their wrongdoing.