



State of New Jersey

DEPARTMENT OF EDUCATION

PO Box 500

TRENTON, NJ 08625-0500

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ANGELICA ALLEN-McMILLAN, Ed.D.
Acting Commissioner

SCHOOL ETHICS COMMISSION

December 29, 2022

For Complainant

Leonard Thor
8 Quail Court
Marlboro, New Jersey 07746

For Respondent

Kathleen Amster
6 Johnson Circle
Marlboro, New Jersey 07746

SUBJECT: LEONARD THOR v. KATHLEEN AMSTER, MARLBORO
TOWNSHIP BOARD OF EDUCATION, MONMOUTH COUNTY,
SCHOOL ETHICS COMMISSION DOCKET #C125-22

Dear Parties:

Please allow this correspondence to acknowledge the School Ethics Commission's (Commission) receipt of a filing by Complainant in connection with the above-captioned matter. More specifically, on December 28, 2022, Complainant filed an **Amended Complaint**¹ alleging violations of:

- **N.J.S.A. 18A:12-24(a)** in Count 1;
- **N.J.S.A. 18A:12-24(d)** in Count 2;
- **N.J.S.A. 18A:12-24(g)** in Count 3; and
- **N.J.S.A. 18A:12-24.1(i)** in Count 4.

¹ Complainant initially filed a deficient Complaint on December 23, 2022. Therefore, and pursuant to N.J.A.C. 6A:28-6.7, the initial filing date of December 23, 2022, will be used for the purpose of determining timeliness pursuant to N.J.A.C. 28-6.5.

Respondent shall have **twenty (20) days from receipt²** of the Complaint within which to file an Answer in accordance with *N.J.A.C. 6A:28-7.1 et seq.* An Answer to Complaint **must be signed under oath**, and the filing *must* include an **original and two (2) copies**. In addition, Respondent shall provide **proof of service upon Complainant** in accordance with *N.J.A.C. 6A:28-1.7*.

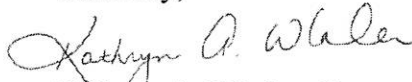
Alternatively, a Motion to Dismiss in Lieu of Answer may be filed in accordance with *N.J.A.C. 6A:28-8.1*. Again, the filing *must* include **an original and two (2) copies**, and **proof of service upon Complainant** in accordance with *N.J.A.C. 6A:28-1.7* must be provided.

All submissions must be sent to: **School Ethics Commission, c/o New Jersey Department of Education, P.O. Box 500, Trenton, NJ 08625**, with a copy to school.ethics@doe.nj.gov. *If your filing is sent electronically, you do not also need to mail it.*

Subject to the exceptions set forth at *N.J.A.C. 6A:28-6.6(g)*, the Commission shall hold all information confidential regarding any pending matter until it first takes action at a public meeting to determine probable cause, or violation, or until the matter is settled, withdrawn or dismissed.

If you have any questions about this acknowledgement, please contact our office at school.ethics@doe.nj.gov.

Sincerely,



Kathryn A. Whalen, Esq.

Director, School Ethics Commission

² "Receipt" shall be deemed to be three (3) days from the date of this notice.

LEONARD THOR :
 : BEFORE THE SCHOOL
v. : ETHICS COMMISSION
KATHLEEN AMSTER : OF NEW JERSEY
 : SCHOOL ETHICS ACT
 : COMPLAINT FORM

I, **Leonard Thor** residing at **8 Quail Court Marlboro, NJ 07746** request the School Ethics Commission to consider a complaint against the above-named Respondent(s) whose home address is **6 Johnson Circle Marlboro, NJ 07746** in accordance with the authority of the School Ethics Commission to entertain such complaints under N.J.S.A. 18A:12-21 et seq.

The facts upon which this complaint is based are as follows: *(Please print additional pages as needed. Students should be identified by initials only.)*

1. Statement of facts:

Kathleen Amster has been serving as an elected board member for the Marlboro Township Board of Education since 2018. Additionally, she is a co-leader of the Marlboro Township Special Education Parent Advisory Group (SEPAG). It is a violation of 18A:12-24 for Ms. Amster to be in both of these roles as it is a conflict of interest.

The Board of Education makes decisions that impact rules and policies of the district. Conversely, SEPAG's role is to advocate and drive change implemented by the district. Mrs. Amster is driving change through SEPAG while the Board of Education enacts change.

According to their website, SEPAG was established to:

- "Collaborate with district administration to positively affect policies, practices, and programs for students with IEPs and 504s"
- "Promote inclusion and acceptance of students with special needs and learning challenges in school and extracurricular activities"
- "Service as a resource to parents through meetings, workshops, and social media presence"

In her dual role, Mrs. Amster is functioning as a change agent for SEPAG, while serving as a decision maker on those proposed changes while on the Board of Education. This is a clear and direct conflict of interest. As a Board of Education member, Mrs. Amster is privy to confidential discussions about personnel and district issues and then uses that

information to drive change through SEPAG. One cannot function as the person requesting change and be a person determining the propriety of the request for change, without a conflict existing.

Date of occurrence: Ongoing through and including the date of this complaint, December 23, 2022. I assert this to be a violation of: **18A:12-24. Conflicts of Interest (a)** No school official or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest."

2. Statement of facts:

For the reasons set forth above, and here, it would not be feasible to adhere to Board of Education guidelines and participate as a co-leader of SEPAG. As a co-leader of SEPAG, Mrs. Amster makes plans and agendas for meetings. Mrs. Amster has taken direct action with respect to leadership roles within SEPAG. Moreover, Mrs. Amster is the Special Education Committee chairperson. Meanwhile in her capacity as SEPAG co-leader, Mrs. Amster brings concerns to the Special Education administration that drives change; thus policy making, planning and appraisal are violated. The administrative role within SEPAG prejudices and creates a direct conflict with her official duty as a Board of Education member. As you can see, Mrs. Amster has prejudice in her independence of judgment in her official duties.

Date of occurrence: Ongoing through and including the date of this complaint, December 23, 2022. I assert this to be a violation of: **18A:12-24. Conflicts of Interest (d)** No school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties.

3. Statement of facts:

Mrs. Amster has surrendered her judgement as a current Board of Education member and co-leader of SEPAG for the reasons below:

- a) Mrs. Amster is the Facebook administrator of SEPAG. The group was created in 2020 and she appears to have been an administrator since then.
- b) Mrs. Amster is the co-leader of a parent group that has the goal of collaborating with the district administration. A Board of Education member has confidential information and intimate details of a district. It is not feasible to practice independent judgement when functioning as a Board of Education member and co-leader. It is impossible to keep matters confidential while privy to confidential information as a co-leader for an organization that drives change with the administration.
- c) Mrs. Amster led a SEPAG "Meet the Candidates" night on Wednesday, October 19, even though she is a sitting board member. She was moderating the discussion. This was after she held a Facebook Live chat and endorsed three out of the six candidates running for office.

Date of occurrence: Ongoing through and including the date of this complaint, December 23, 2022. I assert this to be a violation of: **18A:12-24. Conflicts of Interest (g)** No

school official or business organization in which he has an interest shall represent any person or party other than the school board or school district in connection with any cause, proceeding, application or other matter pending before the school district in which he serves or in any proceeding involving the school district in which he serves or, for officers or employees of the New Jersey School Boards Association, any school district. This provision shall not be deemed to prohibit representation within the context of official labor union or similar representational responsibilities.

4. Statement of facts:

At the December 20, 2022 Board of Education meeting there were two resolutions for merit pay for Dr. Eric Hibbs. The agenda items clearly stated the following:

16. AWARD OF MERIT PAY: 2022-23 SCHOOL YEAR EMPLOYMENT CONTRACT FOR SUPERINTENDENT OF SCHOOLS.

17. AWARD OF MERIT PAY: 2022-23 SCHOOL YEAR EMPLOYMENT CONTRACT FOR SUPERINTENDENT OF SCHOOLS.

Both of these merit goals had clear language stating that the superintendent had satisfied the requirements for Qualitative Goal #2 and Quantitative Goal #3. As per the agenda, Dr. Hibbs had provided evidence to the Board of Education that he demonstrated satisfaction of this goal.

There was no basis for any member to vote no. In fact, the achievement of merit goals is a formative part of Dr. Hibbs contractual compensation.

Kathleen Amster voted no to items 16 and 17 offering no explanation as to why despite being provided evidence that Dr. Hibbs achieved these merit goals.

Therefore, Mrs. Amster violated **18A:12-24.1 Code of Ethics for School Board Members (i)** which states she must support and protect school personnel in the proper performance of their duties.

There was no basis for Mrs. Amster to vote no in the achievement of these goals as she was provided evidence of their completion.

On the April 26, 2022 Board of Education meeting while voting on award of merit pay for Dr. Hibbs, the minutes show "Mrs. Amster stated that she wanted to be clear about why she voted the way she did. She voted no for Dr. Hibbs contract, which included merit pay, when it was negotiated the last time. It was not a personal attack nor a vendetta against Dr. Hibbs. Mrs. Amster further stated that she was told by legal counsel that she was unable to vote no and would be abstaining from #15."

WHEREFORE, I, as Complainant, request that the School Ethics Commission find and determine that the above-named Respondent has violated the School Ethics Act and that she be subject to such penalty as provided by the Act.

For Agency Use Only

Docket Number: _____

Date

12/23/22

Signature of Complainant
or his or her Attorney

Paul J. Allen

CERTIFICATION UNDER OATH

Leonard Thor, of full age, being duly sworn upon his or her oath according to law deposes and says:

1. I am the complainant in this matter.
2. I have read the complaint and aver that the facts contained therein are true to the best of my knowledge and belief and I am aware that the statute that created the School Ethics Commission authorizes the School Ethics Commission to impose penalties for filing a frivolous complaint. N.J.S.A. 18A:12-29(e). I am aware that if the respondent alleges that the complaint is frivolous, I shall have 20 days from receipt of the answer to respond to the allegation.
3. The subject matter of this complaint is not pending in any court of law or administrative agency of this State. I will advise the School Ethics Commission if I subsequently become aware that it is pending elsewhere.

Signature of Complainant

Paul J. Allen

Date:

12/23/22

Sworn and subscribed to before me this 23rd day of December, 2022

Notice: All final decisions issued in connection with complaints that come before the School Ethics Commission for review and determination are public records uniformly posted on the Department of Education's website at <http://www.nj.gov/education/legal/>. As a general rule, selective requests to remove a particular decision for reasons of personal preference are not entertained.

NADIA B. MOAWED
Notary Public
State of New Jersey
My Commission Expires May 4, 2025
I.D.# 50015114

State of NJ County of Monmouth
Subscribed and sworn to before me on 12/23/2022
(Date)
[Signature]
(Notary Signature)