



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW
9 Quakerbridge Plaza
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Ellen S. Bass
Acting Director and Chief
Administrative Law Judge

Candice Hendricks
Assistant Director

April 7, 2021

By E-mail: opra+request-21341-ecd021dd@requests.opramachine.com
G.R.

Re: OPRA Request

Dear G.R.:

The Office of Administrative Law ("OAL") received your request under the Open Public Records Act dated March 26, 2021. You requested:

Copies of records pertaining to three matters transferred to OAL from the School Ethics Commission regarding the Lacey Township Board of Education, including, I/M/O Shawn Giordano, Lacey Township Board of Education, Docket No. 06739-2020. I understand that ALJ Pelios requested written submissions from all counsel of record by March 15th, 2021 explaining their positions with respect to co-tracking for discovery and negotiation purposes.

1. Please provide an electronic copy of the written submissions submitted to ALJ Pelios from attorneys Alyssa Weinstein, Michal Czarnecki, Sydney Finkelstein, Christopher Supsie, and Christopher Dasti regarding the above matter that were due on March 15th.
2. Please further provide copies of any written rulings or determinations made by ALJ Pelios regarding the above.

In response to your request, the responsive records are attached. With regard to request number 2, no order or decision has been issued yet.

Sincerely,

Margie Greco
for Candice Hendricks
Assistant Director
Judicial Standards and Procedures

CGH/mmg

Important Notice

Requestor Information – Please Print

Payment Information

Extras: Extraordinary service fees dependent upon request.

AGENCY USE ONLY**AGENCY USE ONLY****AGENCY USE ONLY**

Balance Paid

See attached

Mary H. Gaudin 4/7/20

Custodian Signature Date

DASTI&ASSOCIATES

Christopher J. Dasti

Joseph C. Falk*

Jeffrey D. Cheney

A Professional Corporation

Attorneys At Law

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*Rule 1:40 Mediator

File No.: GL-771

March 3, 2021

The Honorable Elia A. Pelios, A.L.J.
Office of Administrative Law
9 Quakerbridge Plaza
Mercerville, NJ 08619

**Re: In the Matter of Shawn Giordano, Lacey Township Board of Education;
Ocean County
OAL Docket No.: EEC10952-2020S**

Dear Judge Pelios:

Please be advised that this Firm represents Respondent Shawn Giordano in the above-captioned matter. Please accept this correspondence as a written submission with regard to the issue related to co-tracking of these matters. By copy of this correspondence, a copy of same is being provided to The Honorable Judge Ascione, who has at least one of the companion matters.

It is my understanding that Your Honor had a telephone conference with counsel on one of the companion cases and all counsel have been advised to submit written submissions. It is also my understanding that all three companion matters have already had initial conferences. This matter is the only case that has not yet had an initial status conference – it is scheduled for March 10, 2021 before Your Honor.

The Honorable Elia A. Pelios, A.L.J.

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I. Background.

The instant matter is one of four School Ethics Commission cases that have been transferred to the Office of Administrative Law. All matters contain similar parties as complainants and/or respondents. All of the matters pertain to claims that arose between current or past Members of the Lacey Board of Education, as well as candidates for office. Similarly, they also pertain to the same time period when the allegations arose, 2018 to 2020. The Respondent in this case is a Respondent in the case of IMO Shawn Giordano (C73-19) and IMO Shawn Giordano (C02-20 consolidated with C73-19) and is also a Complainant in IMO Regina Discenza (C75-19).

Respondent, in the instant matter, is a past Member of the Lacey Board of Education. Mr. Giordano served as the Lacey Board of Education President in 2019 and did not win re-election. The initial Complainant, Regina Discenza, is at all times, relevant to the allegations in this matter and currently, is a Member of the Lacey Township Board of Education.

II. Consolidation and/or Co-Tracking.

The parties seek to consolidate and/or co-track these four Office of Administrative Law matters.

The purpose of co-tracking and/or consolidating the matters is nothing more than a necessity for judicial economy and efficiency of discovery.

These four matters are essentially cross allegations against various parties, which led to the four School Ethics Commission complaints. The allegations in all four cases

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essentially overlap the timeframes over the last two years. Any discovery produced in one case would likely be used against a party in another case.

Pursuant to N.J.A.C. 1:1-14.6, an Administrative Law Judge has the power to control his docket and shall control the presentation of evidence and development of the record. The purpose of the discovery is to facilitate the disposition of cases by streamlining the hearing. See N.J.A.C. 1:1-10.1. In the instant matter, the parties seek to, at the very least, co-track, but perhaps, consolidate, all the matters to streamline the discovery and hearing process to establish the facts and evidence. In these cases, there is the high probability that anything that a party discloses and/or states in discovery or in one case, would not only be discoverable, but also used against that party in another case.

The parties in one case could enter stipulations of agreed upon facts, that could either correlate to another matter or, be the unfortunate result of being contradictory to the facts stipulated to in another matter. See N.J.A.C. 1:1-15.11. The only way to avoid inconsistent discovery, rulings on matters of fact, and final determinations in each of these cases, is to track them together. At the very least, there should be a joint discovery order where all four matters should be consolidated for the purposes of discovery so all discovery requests propounded and produced in one case should be circulated to all parties in the three companion matters. To do otherwise would not only require a duplication of efforts in asking for essentially the same evidence in different cases numerous times, but could also lead to inconsistent discovery requirements, and inconsistent outcomes.

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An Administrative Law Judge's authority in overseeing the hearing and its docket, grants the ALJ broad discretion in conducting the hearing, developing the record, and rendering a decision. See N.J.A.C. 1:1-14.6(p). Therefore, the authority to consolidate and/or co-track these matters is within the discretion of the Administrative Law Judge.

There are no conflicts of interest with this law firm that would prevent the consolidation and/or co-tracking of these matters.

III. Conclusion.

Respondent Shawn Giordano in the above-captioned matter consents to the consolidation and/or co-tracking of this matter with the three companion matters.

I thank the Court for its consideration of this matter.

Respectfully Submitted,

/s/Christopher J. Dasti

CHRISTOPHER J. DASTI

CJD: bm

cc: The Honorable Joseph Ascione, A.L.J.-via email

Sydney Finkelstein, DAG-via email

Michael Czarnecki, DAG-via email

Christopher Supsie, Esq.-via email

Alyssa Weinstein, -via email

LAW OFFICES
STEIN, SUPSIE & TEDESCHI

AN ASSOCIATION CONSISTING OF A LIMITED LIABILITY COMPANY

CHRISTOPHER M. SUPSIE†
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OUR FILE: 15320 AND 15321

March 9, 2021

VIA EMAIL Maria.Lugo@aol.nj.gov
Honorable Elia Pelios, A.L.J.
Office of Administrative Law
9 Quakerbridge Plaza
Mercerville, NJ 08619

**RE: In the Matter of Shawn Giordano, Lacey
Township Board of Education, Ocean County
OAL Docket No.: EEC 06739-2020S
Agency Reference No.: C-73-19/C-02-20**

Dear Judge Pelios:

Please be advised that this office represents Respondent, Shawn Giordano, in the above-referenced matter. Please accept this correspondence as a written submission regarding Your Honor's request for all attorneys involved to submit written submissions as to consideration of the co-tracking of the companion cases.

I have received the March 3, 2021 written letter of Christopher J. Dasti, Esq. in which he accurately sets forth the procedural background and the current status of these claims.

As to any potential consolidation and/or co-tracking of these cases, it is necessary for me to express certain concerns relating to the potential of a conflict of interest. My client, Shawn Giordano, was a member of the Lacey Township Board of Education and served as the Board President in 2019. The Complainant in the matter in which Mr. Dasti is furnishing representation to Shawn Giordano is Regina Discenza. Ms. Discenza was also a member of the Lacey Township Board of Education in 2019. Please note that Ms. Discenza is also a Respondent in a matter that was filed by multiple Complainants including Shawn Giordano as well as other individuals that were either past, present or future members of the Lacey Board

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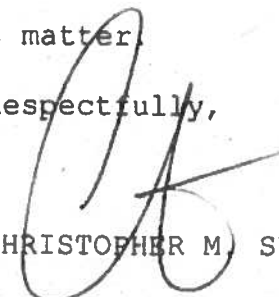
of Education. The alleged unethical conduct involves matters which would have taken place in 2019. Please be further advised that I served as the Board Attorney for the Lacey Board of Education for all time periods up through and including June 30, 2020. In light of the foregoing, I respectfully submit that it would be a conflict of interest for me to furnish representation to Shawn Giordano in any manner in which a then serving board member (Regina Discenza) was an adversary. Such a circumstance would involve the representation of one board member as to the interests of an alternate board member. There is no such conflict of interest in my representation of Shawn Giordano as it would relate to the charges that I am involved in since the Complainants in that matter are Gavin Rozzi and Sonia Marchitello (both were individuals that unsuccessfully ran for public office to serve on the Lacey Board of Education).

In light of those circumstances, I would be very uncomfortable being involved in a consolidation of these matters since that would potentially place me in a position of a conflict with an alternate board member. I would have no objection to any co-tracking of these matters since a co-tracking of these cases would seem to be logical and would ultimately potentially facilitate efficiency and resolution of these matters in an expeditious fashion.

Should Your Honor have any questions or concerns with this communication or should any of the parties wish to hear further from me regarding any of the concerns I am expressing, I would welcome the opportunity for any such request.

Thank you for attention to this matter.

Respectfully,



CHRISTOPHER M. SUPSIE

CMS/jb

Cc: Honorable Joseph Ascione, A.L.J., Lysa.Martino@aol.nj.gov
Sydney Finklestein, DAG, Sydney.Finkelstein@law.njoag.gov
Michal Czarnecki, DAG Michal.Czarnecki@law.njoag.gov
Christopher J. Dasti, Esq., Cdasti@dastilaw.com
Alyssa Weinstein, Esq. Aweinstein@buschlawgroup.com



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO Box 112
TRENTON, NJ 08625-0112

GURBIR S. GREWAL
Attorney General

MICHELLE L. MILLER
Director

March 15, 2021

Via EMAIL (Maria.Lugo@oal.nj.gov)

The Honorable Elia A. Pelios, ALJ
Office of Administrative Law
P.O. Box 049
Trenton, New Jersey 08625-0049

Re:

In the Matter of Regina Discenza v. Lacey Twp. Boe,
Ocean County
OAL Dkt. No. EEC 06738-2020
Agency Dkt. No. C75-19

In the Matter of Shawn Giordano v. Lacey Twp. BOE, Ocean
County
OAL Dkt. No. EEC 06739-2020S
Agency Dkt. No. C73-19 and C02-20 (consolidated)

In the Matter of Shawn Giordano v. Lacey Twp. BOE,
Ocean County
OAL Dkt. No. EEC 10952-2020
Agency Dkt. No. C04-20

Dear Judge Pelios:

This office represents the New Jersey State Department of Education, School Ethics Commission, in the above-referenced matters. Sydney Finkelstein, DAG, is handling EEC 06739-2020S and EEC 10952-2020, and I am handling EEC 06738-2020.

At this time, we take no position as to whether the above referenced matters should be co-tracked.

Thank you for your attention to this matter.



March 15, 2021

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Respectfully submitted,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Michal Czarnecki
Michal Czarnecki
Deputy Attorney General

cc: The Honorable Joseph Ascione, ALJ (via electronic mail)
Christopher M. Suspie, Esq. (via electronic mail)
Sydney Finkelstein, DAG (via electronic mail)
Alyssa Weinstein (via electronic mail)
Christopher Dasti (via electronic mail)

March 15, 2021

VIA EMAIL ONLY

Honorable Elia A. Pelios, ALJ
NJ Office of Administrative Law
3444 Quakerbridge Road, Bldg. 9
Mercerville, NJ 08619

RE: EEC 06738-2020, Agency C75-19, I/M/O Regina Discenza (ALJ Pelios)
- and two related matters -
EEC 10952-2020, Agency C04-20, I/M/O Shawn Giordano (ALJ Pelios)
EEC 06739-2020, Agency C73-19 & C02-20 (consolidated), I/M/O Shawn
Giordano (ALJ Ascione)

Dear Judge Pelios:

As Your Honor is aware, I represent Regina Discenza in connection with the first-listed matter referenced above (EEC 06738-2020). Per Your Honor's instructions, I submit this letter in support of the proposed co-management of all three of the above-referenced matters. I provide the following information regarding the parties, attorneys, and claims involved in each matter for ease of reference:

EEC 06738-2020, Agency C75-19, I/M/O Regina Discenza (ALJ Pelios)

- The School Ethics Commission is represented by DAG Michal Czarnecki, Esq.
- Ms. Discenza is represented by Alyssa K. Weinstein, Esq.
- There were four counts in the initial complaint brought by Lead Complainant Shawn Giordano and five other complainants against Ms. Discenza. Two counts were dismissed by the School Ethics Commission on motion.
- The remaining two counts allege that, during the 2019 campaign season for the Lacey Township Board of Education election, Ms. Discenza participated in an improper Facebook campaign video and behaved inappropriately at an election polling site.
- The alleged statutory provisions violated are N.J.S.A. 18A:12-24(b); N.J.S.A. 18A:12-24.1(e); and N.J.S.A. 18A:12-24.1(f).

EEC 10952-2020, Agency C04-20, I/M/O Shawn Giordano (ALJ Pelios)

- The School Ethics Commission is represented by DAG Sydney Finkelstein, Esq.
- Mr. Giordano is represented by Christopher Dasti, Esq.
- There were ten counts in the initial complaint brought by Ms. Discenza against Mr. Giordano and two other respondents. Six counts were dismissed by the School Ethics Commission on motion.
- The remaining four counts allege that Mr. Giordano improperly directed Lacey Township Board of Education Attorney Christopher Supsie, Esq. to conduct research

REPLY TO

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FAX: 732 243 9590

309 FELLOWSHIP RD
STE 200
MT LAUREL, NJ 08054
863 350 1030

regarding Ms. Discenza, a fellow Board member and political rival of Mr. Giordano, in connection with the 2019 Board election.

- The alleged statutory provisions violated are N.J.S.A. 18A:12-24(b); 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).

EEC 06739-2020, Agency C73-19 & C02-20 (consolidated), I/M/O Shawn Giordano (ALJ Ascione)

- The School Ethics Commission is represented by DAG Sydney Finkelstein, Esq.
- Mr. Giordano is represented by Christopher Supsie, Esq.
- There were several counts in the initial complaints brought by Gavin Rozzi and Sonia Marchitello against Mr. Giordano and another respondent. The other respondent was dismissed by the School Ethics Commission on motion.
- The remaining counts in both complaints allege that Mr. Giordano improperly directed Lacey Township Board of Education Attorney Christopher Supsie, Esq. to conduct research regarding Mr. Rozzi and Ms. Marchitello, political rivals of Mr. Giordano, in connection with the 2019 Board election.
- The alleged statutory provisions violated are N.J.S.A. 18A:12-24(b); 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).

Set forth in another format:

Matter	SEC Attorney	Respondent Attorney	Remaining Allegations (all relate to 2019 Board election season)
EEC 06738-2020 Agency C75-19 I/M/O Regina Discenza (ALJ Pelios)	School Ethics Comm. is represented by DAG Michal Czarnecki, Esq.	Ms. Discenza is rep. by Alyssa K. Weinstein, Esq.	• Improper Facebook campaign video • Inappropriate behavior at election polling site • N.J.S.A. 18A:12-24(b) • N.J.S.A. 18A:12-24.1(e, f)
EEC 10952-2020 Agency C04-20 I/M/O Shawn Giordano (ALJ Pelios)	School Ethics Comm. is represented by DAG Sydney Finkelstein, Esq.	Mr. Giordano is rep. by Christopher Dasti, Esq.	• Improper use of Board Attorney Supsie to research Ms. Discenza • N.J.S.A. 18A:12-24(b) • N.J.S.A. 18A:12-24.1(c, e, f)
EEC 06739-2020 Agency C73-19, C02-20 I/M/O Shawn Giordano (ALJ Ascione)	School Ethics Comm. is represented by DAG Sydney Finkelstein, Esq.	Mr. Giordano is rep. by Christopher Supsie, Esq.	• Improper use of Board Attorney Supsie to research Mr. Rozzi and Ms. Marchitello • N.J.S.A. 18A:12-24(b) • N.J.S.A. 18A:12-24.1(c, e, f)

The above information demonstrates that all three matters involve overlapping parties, counsel, allegations, time frames, and statutory provisions allegedly violated.

Because the School Ethics Commission has stepped into the shoes of the original complainants in each matter, discovery between parties to separately-captioned matters will be necessary in order to fully develop the facts in preparation for the hearing. See N.J.A.C. 1:1-10.1(a). For example, the first two above-listed matters essentially involve cross-claims between Ms. Discenza and Mr. Giordano, yet neither is a party to the other's case at OAL since the Commission has stepped into the shoes of each complaining party. Co-management of these matters would permit cross-discovery so that all stakeholders may obtain a full factual record for presentation at the hearing.

To the same end, co-management would prevent the parties from presenting contradictory factual or legal positions in separate matters, and would avoid the potential for inconsistent rulings by the administrative law judge(s) hearing these matters.

Although discussions aimed at resolving these matters without a hearing would likely be premature at this time, co-management would provide an opportunity, after discovery, for all involved parties to come together for a conference with one administrative law judge to discuss potential avenues for resolution.

In the event these matters proceed to a hearing, co-management would streamline the process of presenting exhibits and witness testimony, promoting efficiency and economy of time and resources, and again preventing inconsistent rulings.

An administrative law judge has the authority to take any action "necessary for the proper, expeditious and fair conduct of the hearing or other proceeding, development of the record and rendering a decision." N.J.A.C. 1:1-14.6(p). Accordingly, for all of the foregoing reasons, on behalf of Respondent Regina Discenza, I respectfully request that all three above-captioned matters be co-managed by one administrative law judge.

Respectfully submitted,

THE BUSCH LAW GROUP LLC



Alyssa K. Weinstein, Esq.
Counsel

cc: Hon. Joseph Ascione, ALJ
DAG Michal Czarnecki, Esq.
DAG Sydney Finkelstein, Esq.
Christopher Supsie, Esq.
Christopher Dasti, Esq.