

In Count 4, Complainant asserts that on November 19, 2018, Respondent Walser replied to an email from a community member (and possible Board candidate), who was expressing her discontent with a recent Board meeting. In his reply, which was sent from his Board email account, Respondent Walser told the member that if she would like to discuss her concerns further, she could meet him on Saturday, while he was working with students and their families to “improve education for ALL...” and directed her to the MAWP website. Also copied on the email was the superintendent, other Board members, and members of the public. Complainant asserts that Respondent Walser violated *N.J.S.A. 18A:12-24(a)*, *N.J.S.A. 18A:12-24(c)* and *N.J.S.A. 18A:12-24(d)* because he is urging members of the public to come to his event to discuss official Board actions/matters, which blurs the line between a Board member and his private life/business. This is compounded by the fact that Respondent Walser used his District email account to advertise the event, and included the superintendent and other Board members on the email, thus giving the perception that the event is Board/District approved.

B. *Motion to Dismiss and Allegation of Frivolous Filing*

Following receipt of the Complaint, Respondents filed a Motion to Dismiss and alleged the Complaint is frivolous. Regarding the alleged violations of *N.J.S.A. 18A:12-24(a)* in Counts 1-4, Respondent Walser argues that Complainant failed to allege sufficient facts, which if true, would suggest that Respondent Walser’s two roles, Board member and founder of MAWP, would interfere with each other in a manner that would constitute a “substantial conflict.” Complainant simply states, “there is inherently a conflict with his official role and this role.” Furthermore, Respondent Walser argues that Complainant failed to explain how Respondent Walser’s interaction with students and reviewing academic work would conflict with his duties as Board President. Therefore, there is insufficient evidence to find that Respondent Walser violated *N.J.S.A. 18A:12-24(a)* in Counts 1-4.

As for the alleged violation of *N.J.S.A. 18A:12-24(c)* in Counts 1-4, Respondent Walser argues that he did not engage in any official action as is required to find a violation of *N.J.S.A. 18A:12-24(c)*. Moreover, even if Respondent Walser’s promotion of the free tutoring constitutes board action, Complainant did not allege that Respondent Walser received any financial or personal benefit as a result of such action, nor has Complainant alleged a violation of any Board policy. Therefore, Complainant has not alleged sufficient, credible evidence to support a finding that Respondent Walser violated *N.J.S.A. 18A:12-24(c)* as set forth in Counts 1-4.

Regarding Respondent Walser’s violation of *N.J.S.A. 18A:12-24(d)* in Counts 1-4, Respondent Walser argues that in A17-15, the Commission advised that there is not a general prohibition on Board members volunteering in activities that the district oversees and when the volunteer activities are passive, they are not “inherently contradictory to the duties placed on a Board member.” Furthermore, Complainant asserted that Respondent Walser “is in conflict with his duties in the eye of the public interest.” Respondent Walser cited *Friends Retirement Concepts v. Board of Education of Somerville*, noting that “the 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.” Respondent Walser also argues that Complainant has not set forth any facts to suggest that MAWP’s goals or objectives contradict the Board’s. Respondent Walser’s volunteer role is similar to that in A17-15, passive, and his role as director