

discussing his direct observations of students who attend the free tutoring sessions “from the dais” (excerpts from meetings provided).

Complainant argues that “Respondent [Walser] incorrectly claims that personal advantages inured through official conduct are permissible due to non-profit status.” Complainant asserts that in accordance with *N.J.S.A. 18A:12-24(c)*, “No school official ... or a *business* organization ...” and as defined, “business” lists “other legal entity,” which includes a non-profit. Complainant contends that the “law was written as such to preclude any advantage one may have garnered through the use of school resources for the benefit of any ‘legal entity’ for which one has an interest” and Respondent Walser and his wife are more than volunteers for MAWP, they are directors and hold an interest. Complainant further argues that Respondent Walser “intentionally” used school resources to promote MAWP and, thereby connected his official role with his personal venture, which increased his “profile” in the public.

Finally, Complainant argues that as the Board President, Respondent Walser is using District resources to promote MAWP as a program that he endorses, and when he speaks “on the dais,” it implies that he is speaking in his official capacity. Furthermore, as Board President, it is unclear whether he promotes other events in the same manner that he is promoting MAWP, in which he has a direct interest. Complainant asserts Respondent Walser “utilized through direct action or through his position, the promotion of events, at the expense of Teaneck taxpayers.” Complainant reaffirms 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)* as set forth in Counts 1-4.

III. Analysis

A. *Standard for Motion to Dismiss*

In determining whether to grant a Motion to Dismiss, the Commission shall review the facts in the light most favorable to the non-moving party (Complainant), and determine whether the allegation(s), if true, could establish a violation of the Act. Unless the parties are otherwise notified, a Motion to Dismiss and any response is reviewed by the Commission on a summary basis. *N.J.A.C. 6A:28-8.1 et seq.* Thus, and because Complainant agreed to voluntarily withdraw all allegations against Respondent Arjumand, the question before the Commission is whether Complainant has alleged facts which, if true, could support a finding 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)* as alleged in Counts 1-4.

B. *Allegations of Prohibited Acts*

In Counts 1-4, Complainant argues 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)*. These provisions of the Act provide, in pertinent part:

- 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