

Board member/President, used or otherwise directing the use of the District's e-mail to promote his personal business (Count 1 and Count 4); posted or otherwise authorized another to post information on the Board's website about his personal business (Count 2); and directed PTO organizations to advertise the work of his personal business (Count 3), Complainant may be able to establish violations of *N.J.S.A.* 18A:12-24(c). Consequently, the Commission finds that the alleged violations of *N.J.S.A.* 18A:12-24(c) in Counts 1-4 should not be dismissed.

iii. Alleged Violations of *N.J.S.A.* 18A:12-24(d)

To credit the alleged violations of *N.J.S.A.* 18A:12-24(d) in Counts 1-4, the Commission must find evidence that Respondent Walser engaged in employment or service, regardless of whether compensated, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties.

Based on its review of Complainant's allegations, the Commission finds that if the facts as alleged in the Complaint are proven true by sufficient credible evidence, they may support a finding that Respondent Walser violated *N.J.S.A.* 18A:12-24(d) as alleged in Counts 1-4. If Complainant can prove, with sufficient credible evidence, that the nature of Respondent Walser's employment by/with MAWP, in and of itself, might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties as a Board member (and Board President), Complainant may be able to establish violations of *N.J.S.A.* 18A:12-24(d). Therefore, the Commission finds that the alleged violation of *N.J.S.A.* 18A:12-24(d) should not be dismissed.

Accordingly, and granting all inferences in favor of the non-moving party (Complainant), the Commission has determined that Complainant has alleged facts sufficient to state a claim for violations of *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) in Counts 1-4. Therefore, the Commission *denies* the Motion to Dismiss in its entirety, but notes that all allegations against Respondent Arjumand have been voluntarily withdrawn by Complainant.

IV. Request for Sanctions

At its meeting on March 26, 2019, the Commission considered Respondents' request that the Commission find the Complaint frivolous, and impose sanctions pursuant to *N.J.S.A.* 18A:12-29(e). Despite Respondents' argument, the Commission cannot find evidence that might show that Complainant filed the Complaint in bad faith or solely for the purpose of harassment, delay, or malicious injury. The Commission also does not have information to suggest that Complainant knew or should have known that the Complaint was without any reasonable basis in law or equity, or that it could not be supported by a good faith argument for an extension, modification or reversal of existing law. *N.J.A.C.* 6A:28-1.2. Therefore, at a special meeting on May 2, 2019, the Commission voted to find the Complaint not frivolous, and to deny the request for sanctions.