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September 17, 2025

Confidential

Durham Ethics Commission
P.O. Box 594
Durham, CT 06422

RE: Town of Durham Ethics Commission – Ethics Complaint
Anthony DeFilio v. Lindsay Dahlheimer

To the Town of Durham Ethics Commission,

Please be advised that we represent the respondent, Lindsay Dahlheimer, with respect to the ethics complaint filed by the complainant, Anthony DeFilio. The respondent submits that probable cause does not exist to support violations of §§2-51 and 2-53(c) of the Town of Durham Code of Ethics ("the Code") as the complainant claims.

A. Responses to Complaint

The respondent respectfully sets forth her responses to the allegations in the complaint:

1. The respondent admits the allegations of Paragraph 1.
2. The respondent admits the allegations of Paragraph 2.
3. The respondent admits the allegations of Paragraph 3.
4. The respondent admits the allegations of Paragraph 4.
5. The respondent admits the allegations of Paragraph 5.

6. The respondent submits that the Charter of the Town of Durham contains a section titled "General town elections" in §2.1.
7. The respondent admits the allegations of Paragraph 7.
8. The respondent admits the allegations of Paragraph 8.
9. The respondent admits that the Durham Code of Ethics is set forth in §§2-51 through 2-60 of the Town of Durham Ordinance.
10. The respondent admits that the Code contains a "Statement of Purpose" set forth in §2-51.
11. The respondent admits that the Code contains "Definitions" in §2-52.
12. The respondent submits that she is a subject to the Town of Durham's Code of Ethics.
13. The respondent admits that the Code contains "Standards of Ethical Conduct" set forth in §2-53.
14. The respondent admits that Anthony DeFilio served her with a civil lawsuit.
15. The respondent submits that the allegations are confusing and otherwise irrelevant to adjudicating the alleged violations.
- 16.-17. The respondent admits that the agenda contained the items identified in Paragraph 17. It was not the ultimate decision of the respondent that Item Nos. 3 through 6 were added to the agenda for the Special Meeting.
18. The respondent admits that she presided over the Special Meeting on July 16, 2025, asked for motions, and announced vote results. The respondent admits that Vice Chair Robert Moore attended the Special Meeting.
19. The respondent admits that the BOE went into Executive Session to discuss Item Nos. 3, 4, and 5.
20. The respondent admits that the BOE addressed Item No. 5 and that she was present during the motion.
21. The respondent disputes the factual allegations of Paragraph 21.
22. The respondent cannot admit or deny the allegations of Paragraph 22 as they implicate the Executive Session.
23. The respondent admits that she did not recuse herself from the Special Meeting.
24. The respondent admits that she did not vote on Item No. 5.
25. The respondent disputes and denies the allegations of Paragraph 25.

26. The respondent admits the allegations of Paragraph 26.
 27. The respondent admits that she did not recuse herself from the vote.
 28. The respondent admits that she resigned as Chair of the BOE.
 29. The respondent admits that the item titled "Discussion of Investigation of Board Member (proposed executive session)" appeared on the agenda for the August 13, 2025, meeting.
 30. The respondent admits the allegations of Paragraph 30.
 31. The respondent admits that the vote passed. The respondent disputes and denies the allegations of Paragraph 31 concerning BOE Policy 9367.
 32. The respondent disputes and denies the allegations of Paragraph 32.
 33. The respondent admits that she did not vote concerning whether to investigate her. The respondent admits that the "remainder of the BOE voted against the investigation."
 34. The respondent disputes and denies the allegations contained in Paragraph 34.
 35. The respondent disputes and denies the allegations contained in Paragraph 35.
 36. The respondent disputes and denies the allegations contained in Paragraph 36.
- In sum, the respondent denies the claimed violations of the Code contained in the complaint and also supplements her responses to the allegations in Section B herein.

B. There is no probable cause to support any violation of Code §§2-51 and 2-53(c).

The allegations of the complaint and the exhibits attached thereto fail to establish probable cause that the alleged violations occurred. Pursuant to Code §2-51, Ms. Dahlheimer neither used her office for "personal gain", nor did she act in a manner that compromised the principles of independence, impartiality, and her responsibility to the community. Pursuant to Code §2-53(c), Ms. Dahlheimer did not "engage in any business, employment or transaction" that was "incompatible with the proper discharge" of her "official duties" or would impair "her judgment, independence or action in the performance of official duties."

BOE Policy 9367 provides in relevant part that "[n]o member can vote on a question in which the Board member has a direct personal or pecuniary interest." Ms. Dahlheimer complied with this rule and did not vote on Item No. 5 of the Special Meeting on July 16, 2025, concerning her indemnification, and she did not vote on whether to order her own investigation at the BOE meeting on August 13, 2025. Therefore, she did not engage in any wrongdoing.

Concerning the allegation that Ms. Dahlheimer improperly presided over the vote on her own indemnification, BOE Policy 9210 provides that "[t]he Chairperson shall preside at all meetings of the Regional District 13 Board of Education." Given her express duties as Chair, Policy 9210 required that she remain present during discussions and voting concerning all items

that appeared on the agenda. Even after she stepped down as Chair, Ms. Dahlheimer had the right to attend BOE meetings in her official capacity as a board member provided that she comply with the Code, which she did. Therefore, Ms. Dahlheimer's attendance at the Special Meeting on July 16, 2025, and the BOE meeting on August 13, 2025, adhered to BOE policies and did not constitute any wrongdoing.

Furthermore, the respondent disputes the application of BOE Policy 9367 to the factual circumstances of this complaint. The complainant argues that Ms. Dahlheimer committed violations of the Code by abstaining from the aforementioned votes. However, BOE Policy 9367 prohibited Ms. Dahlheimer from voting on whether to indemnify her and whether to investigate her conduct. Therefore, it would be unjust to find that Ms. Dahlheimer in effect voted for herself by abstaining when BOE Policy 9367 unambiguously prohibited her from voting.

Finally, it is within the power of the BOE to determine whether to indemnify and investigate one of its members. Ms. Dahlheimer, as Chair, had explicit, written responsibilities that the complainant erroneously characterizes as violations of the Code. There are policies in place to prevent a member from potentially acting for personal gain in situations where agenda items involve them. Ms. Dahlheimer categorically complied with these safeguards.

For the reasons stated herein, the undersigned respectfully submits that there is no probable cause that the alleged violations of Code §§2-51 and 2-53(c) occurred.

Respectfully Submitted on Behalf of the Respondent,
Lindsay Dahlheimer,

/s/ Richard E. Fennelly, III
Richard E. Fennelly, III
MCGIVNEY, KLUGER, CLARK & INTOCCIA, PC