



New Jersey School Boards Association

# **Ethics for School Officials**

Presented by:  
NJSBA Field Services Representatives



# School Ethics Act (effective April 1992)

N.J.S.A. 12-23.1



It is essential that the conduct of members of local boards of education and local administrators hold the **respect** and **confidence** of the people.

These board members and administrators must **avoid conduct** which is in **violation of their public trust** or which creates a **justifiable impression** among the public that such trust is being violated.





# School Ethics Act (effective April 1992)

## N.J.S.A. 18A:12-23.1



To ensure and preserve public confidence, school board members and local school administrators should have the benefit of **specific standards** to **guide their conduct** and of some **disciplinary mechanism** to ensure the **uniform maintenance of those standards** among them.

**Provisions of this act also apply to charter school trustees and administrators.**



# NJQSAC – Governance Indicator

## **Governance Indicator 13:**

District board of education members and school administrators annually file a timely and properly completed financial and personal/relative disclosure statement. The district board of education annually discusses the School Ethics Act and no district board of education member or administrator has been found in violation of the School Ethics Act. (N.J.S.A. 18A:12-22 and 26)

**Points: 8**

## **Indicator 13 Purpose**

To ensure transparency and ethical conduct of board of education members.

## **Indicator 13 Documentation for Verification**

This indicator is monitored remotely.

- Annual online completion of required disclosure statements for board of education members and school administrators.
- Annual discussion of the School Ethics Act, as demonstrated in the board of education minutes.
- List of any board of education member or administrator in the district who has been in violation of the School Ethics Act from the School Ethics Commission.



# The Act established:

**School Ethics Commission**

**Code of Ethics (2001- 9 years later)**

**Conflicts of Interest**

**Disclosure Statements – Personal/relative and Financial**

**Training Requirements for board members**



# Required Training to be Provided by NJSBA N.J.S.A. 18A:12-33

## New Board Member – Year 1 of First Term

- Skills and knowledge necessary to serve.
- NJQSAC and its five areas of effectiveness
- Chief School Administrator evaluation process - within 6 months of taking office (N.J.A.C. 6A:10-8.1(j))

## Years 2 & 3 of First Term

- Governance - in each of subsequent two years.
- (Governance II – School Finance; Governance III – Student Achievement)

## Within 1 Year After Each Re- election

- Advanced training to include updates on relevant school law and other appropriate information.

## Newly Elected/ Appointed or Re-elected/Re- appointed

- Harassment, intimidation and bullying in schools, including a district's responsibilities.
- Only required once. (Initial training in Governance I; updates in Governance IV)



# School Ethics Commission (SEC)

## **9 Members**

appointed by  
governor for a  
3-year term  
  
(no more than 5  
from any one  
political party)

**2 school  
board  
members**

**5 non-school  
officials**

**2 school  
administrators**



# SEC Jurisdiction

## Advisory Opinions

N.J.S.A. 18A:12-31

- Only a **school official** may request an **advisory opinion** to determine if **any proposed activity or conduct by** a school official in same district would constitute a violation of the Act.

Can be made public.  
Needs 6 votes from SEC.

## Ethics Complaints

- Acts upon complaints filed by **anyone** alleging **a violation of the School Ethics Act or Code of Ethics** took place.





# Advisory Opinion A06-19

Only Advisory Opinion issued in 2019

**Newly elected board member drives a bus that transports the district's students but is employed by an outside company. Member has no ownership in the company with no financial benefit other than pay.**

**Not supervised by district staff but administration can request that a driver be removed from district routes. Driver may have to write a report for student behavior issues and give direction to the district's aides who ride on the bus.**

**SEC concluded that the member is a private employee of a private company doing their job that includes casual, temporary contact with students and aides over whom there is limited authority. Member must refrain from any discussion/vote of transportation services, issues involving the bus company, and issues involving specific students/aides on the route.**



# Penalties Issued By SEC

## Violation of the Act

SEC may recommend to the Commissioner:

**Reprimand**

**Censure**

**Suspension**

**Removal**

**Rebuke by  
Commissioner**

**Formal disapproval  
by Commissioner  
publicized by  
adoption of  
resolution**

**Remove from office  
for remaining  
length of term**

SEC makes recommendation to Commissioner for final agency decision.  
Appeals are heard by the Appellate Division.



# Code of Ethics for School Board Members

*N.J.S.A. 18A:12-24.1*

a. I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures.

Factual evidence shall include a copy of a final decision from any court of law or administrative agency of this State demonstrating that the respondent(s) failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that the respondent brought about changes through illegal or unethical procedures



## Code of Ethics (continued)

b. I will make decisions in terms of the educational welfare of children and will seek to develop and maintain public schools that meet the individual needs of all children regardless of their ability, race, creed, sex, or social standing.

A decision was willfully made contrary to the educational welfare of children, or deliberate action was taken to obstruct the programs and policies designed to meet the individual needs of all children, regardless of their ability, race, color, creed or social standing.



## Code of Ethics (continued)

c. I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

Board action was taken to effectuate policies and plans without consulting those affected by such policies and plans, or action was taken that was unrelated to the respondent's duty to: i. Develop the general rules and principles that guide the management of the school district or charter school; ii. Formulate the programs and methods to effectuate the goals of the school district or charter school; or iii. Ascertain the value or liability of a policy.



## Code of Ethics (continued)

d. I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.

A direct order was given to school personnel or there was direct involvement in activities or functions that are the responsibility of school personnel or the day-to-day administration of the school district or charter school.



## Code of Ethics (continued)

e. I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

Personal promises were made or action taken beyond the scope of his or her duties such that, by its nature, had the potential to compromise the Board.



## Code of Ethics (continued)

f. I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

Action was taken on behalf of, or at the request of, a special interest group or persons organized and voluntarily united in opinion and who adhere to a particular political party or cause; or the schools were used in order to acquire some benefit for the respondent(s), a member of his or her immediate family or a friend.





## Code of Ethics (continued)

g. I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

Took action to make public, reveal or disclose information that was not public under any laws, regulations or court orders of this State, or information that was otherwise confidential in accordance with board policies, procedures or practices. Inaccuracy of information and evidence that establishes that the inaccuracy was other than reasonable mistake or personal opinion or was not attributable to developing circumstances must be substantiated.



## Code of Ethics (continued)

h. I will vote to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer.

A personnel matter was acted upon without a recommendation of the chief administrative officer.



# Code of Ethics (continued)

i. I will support and protect school personnel in proper performance of their duties.

Deliberate action was taken which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties.



## Code of Ethics (continued)

j. I will refer all complaints to the chief administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

Acted on or attempted to resolve a complaint, or conducted an investigation or inquiry related to a complaint: i. Prior to referral to the chief administrative officer; or ii. At a time or place other than a public meeting and prior to the failure of an administrative solution.



# 2019 SEC Commissioner Decisions

- A member shared information about a student discipline incident with his immediate family which was then shared with countless others. (g) (Censure)
- A member approached a subordinate employee of the CSA to inquire if she would be interested in assuming the position of CSA even though it was not vacant. (e),(i) (Reprimand)
- A member attended a local teachers union meeting without board approval and told the teachers that they had the Board's support and the Board was exploring all options to remove the superintendent. (d)(e) (60 day suspension)
- During a traffic stop, a member presents herself as a board member, indicates her relationship to a local official, and used inappropriate language. (e),(f) (30-day suspension)



# 2019 SEC Commissioner Decisions

- A member's wife is a teacher in the school and he owns a business near the school so he regularly entered the school without following the visitation policy/procedures. Also met with a school secretary to encourage him to make a statement that he was being blackmailed by administration to keep an incident hidden.

(b),(d),(i) visitation and (d),(e),(i),(j) improper meetings with secretary. Censure only because off Board.

## Visitation

(b) Failure to comply with policy/procedures after multiple requests.

(i) Did not support school personnel in attempts to enforce policy and know who is in building

(d) Undermined authority of school personnel in day-to-day managing of building to assure the safety and orderly conduct.

## Meetings with School Secretary

(d) Became involved in day-to-day operations.

(i)(j) Did not support/undermined administration in conducting own investigation.

(e) Make promises and sought to obtain information in a private setting.



# Conflicts of Interest- *N.J.S.A.18A: 12-24*

**Recuse yourself** if there is a benefit to **you** as a **school official** or your **immediate family**, due to a:

Business interest

Use of position to secure unwarranted privileges, advantages, or employment.  
(Extends to “others” which can include Nepotism policy definition of relative.)

Financial involvement

Gift, favor, etc. offered with the intent to influence

Personal involvement that creates a benefit

Service or employment that may prejudice independent judgment

**SEC definition of Immediate Family (18A:12-23): spouse or dependent child residing in same household.**





# Who Qualifies as a Relative?

N.J.A.C. 6A:23A-1.2

## Accountability Regulation Definition\*

Spouse/civil union  
or domestic  
partner

Parent/stepparent

Child/stepchild  
and son/daughter-  
in-law

Grandparent,  
grandchild

Siblings,  
stepbrother/sister,  
half brother/sister

Aunt/uncle,  
niece/nephew

\* **Whether related to school official or spouse/partner** by blood, marriage or adoption.





# Hiring/Personnel

May not hire a relative of a board member or chief school administrator.

(May be exceptions)

If the relative already works in the district:



**An administrator may not exercise direct or indirect authority over a relative of the administrator.**

**A board member may not take part in employment matters concerning the CSA or supervisors in the chain of command between the relative and the CSA.**

**A board member may not take part in the search, selection, or vote to hire a new CSA, and post-hire evaluations and contract discussions.**



# Collective Bargaining

A24-17

Relationship to Board Member	Current Member of a Statewide Public Teachers' Union	Participate in Negotiations Yes or No	Vote to Ratify the Contract Yes or no
Spouse Dependent Child Child (not dependent) Relative	Works in the District	No	No
Self Spouse Dependent Child	Works Out-of-District	No	Yes* **
Child (not dependent) Relative	Works Out-of-District	Yes*	Yes*

\* Absent another conflict

\*\* After Memorandum of Agreement, salary guides, total compensation package attained.



# Collective Bargaining

## Other Possible Conflicts

- Supervised by employees in the unit
- Not in the unit, but terms of employment linked to unit.
- Immediate family member/relative has heightened union involvement.

**A10-18:** Endorsement of a candidate by a local or statewide union does not create a per se future conflict unless a financial contribution is given and is intended to influence the member.



# Doctrine of Necessity

A19-17

**The Doctrine of Necessity is only to be invoked when the Board is required to vote on a matter requiring the majority vote of the full membership.**

**Formation of a committee, even if only 1 member is eligible, does not warrant the Doctrine of Necessity because selection of committee members is not a matter required to be voted upon.**

**Two non-conflicted members may obtain the assistance of CSA, B/A or consultant to help with negotiations**



# Conflicts Knowledge Check

A relative is an immediate family member.	T or F	<b>F</b>
The Board may not employ a relative of a board member or chief school administrator.	T or F	<b>T</b>
When a majority of the board members are conflicted, the doctrine of necessity may be invoked so that the Board can form a Negotiations Committee.	T or F	<b>F</b>
A board member whose wife's aunt is a paraprofessional in the district may not participate in the evaluation of the chief school administrator.	T or F	<b>T</b>
A board member is a teacher in a neighboring district. The member can participate in the negotiations process for the teachers' contract but cannot vote on the final contract.	T or F	<b>F</b>
The assistant superintendent may not evaluate the principal in the building where the asst. supt.'s son is a teacher.	T or F	<b>T</b>



# Volunteerism

School board members are not “banned” from volunteering in the schools in their district, but there are important considerations to make.

- Generally, board members may volunteer for activities that support their children, including holding an executive position with the PTA / PTO / HSA.
- **HOWEVER**, BOE members should **refrain** from certain activities, based on the degree of involvement with students and/or staff, and the degree to which the school board member has authority to give or receive directions to/from students and/or staff.
- Board members who volunteer in the schools should advise the superintendent of their planned in-school volunteer activity in advance.



# Before you volunteer in school...

Become familiar with NJ School Ethics Advisory Opinions on volunteerism, e.g., A15-18; A17-15: A24-15; 10-15; A32-14.

<https://www.nj.gov/education/legal/ethics/index.shtml>

## And ask yourself these questions:

1. Will I be giving directions or orders to staff or students? **No**
2. Will I need to take orders from staff? **No**
3. Will I be in the school often? **No**
4. Will it seem to visitors that I work in the school? (i.e., “enmeshed in the building”) **No**
5. Will I be handling the school district’s money at all? **No**
6. Will I be the lead or regular volunteer for a school district club, or a coach for a school district activity or sport? **No**
7. Does the organization for which I am performing the school-based volunteer work (e.g., Girl Scouts, PTO, Rec Commission) have its own bylaws and bank accounts? **Yes**

**If your answers are different from any of the answers above, your planned volunteerism is likely at odds with the role of school board member. Talk to your superintendent and request input from the school district’s attorney.**



# Interview Committees

**A31-15** Board member involvement in interviews for positions other than that of Superintendent is not encouraged.

- Exceptions in narrow circumstances subject to approval of the superintendent and the guidelines in **A04-12**.

**A04-12** One or two board members; **administrative staff coordinates** participation – observations and assessments; CSA recommendation.

**A15-10 – Exit Interviews – No!**





# Points to Consider...

**NJSBA recommends boards develop a list of board members and administrators who have a conflict and review it regularly.**



**Consult with your Board attorney on ethics issues and to identify conflicted members/administrators.**



**Continue to check *School Board Notes* to keep abreast of newly released advisories.**





## In Closing...

**“School officials must always be cognizant of their responsibility to protect the public trust, to honor their obligation to serve the interest of the public and Board, and to periodically re-evaluate the existence of potential conflicts.”**

**(A10-18)**



# Links to Commissioner Decisions for Examples Used

## **School Ethics Commission website:**

<https://www.nj.gov/education/legal/commissioner/2016/sep/322-16SEC.pdf>

## **2019 Commissioner Decisions:**

<https://www.nj.gov/education/legal/commissioner/2019/may/152-19SEC.pdf>

<https://www.nj.gov/education/legal/commissioner/2019/sep/228-19SEC.pdf>

<https://www.nj.gov/education/legal/commissioner/2019/oct/273-19ASEC.pdf>

<https://www.nj.gov/education/legal/commissioner/2019/oct/288-19SEC.pdf>

<https://www.nj.gov/education/legal/commissioner/2019/may/153-19SEC.pdf>

## **Advisory Opinions**

Link to all Advisory Opinions: <https://www.nj.gov/education/legal/ethics/advisory/>

Opinions related to Volunteerism: A32-14, A10-15, A17-15, A24-15, A15-18

Opinions related to Interviews: A15-10, A04-12, A31-15

2019 Example in presentation: A06-19

Doctrine of Necessity: A19-17

Union Endorsement: A10-18