

CHAPTER 28

SCHOOL ETHICS COMMISSION

Authority

N.J.S.A. 18A:1-1, 18A:4-15 and 18A:12-21 et seq.

Source and Effective Date

R.2009 d.163, effective April 21, 2009.
See: 41 N.J.R. 26(a), 41 N.J.R. 699(a), 41 N.J.R. 2095(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 28, School Ethics Commission, expires on October 18, 2016. See: 48 N.J.R. 532(a).

Chapter Historical Note

Chapter 28, School Operations, was originally codified in Chapter 3 of Title 6 as Subchapter 9, School Ethics Commission. Subchapter 9 was adopted as R.1993 d.394, effective August 2, 1993. See: 25 N.J.R. 1924(a), 25 N.J.R. 3511(a).

Subchapter 9, School Ethics Commission, was readopted as R.1999 d.342, effective September 10, 1999, and Subchapter 9 was recodified as Subchapter 8, School Ethics Commission, by R.1999 d.342, effective October 8, 1999. See: 31 N.J.R. 1662(a), 31 N.J.R. 2917(a).

Subchapter 8, School Ethics Commission, was recodified as N.J.A.C. 6A:28 by R.2000 d.139, effective April 3, 2000. See: 31 N.J.R. 4166(a), 32 N.J.R. 1189(a).

Subchapter 2, Entitlement to Attend School Based on Domicile or Residency in District, was adopted as R.2001 d.464, effective December 17, 2001. 33 N.J.R. 2790(a), 33 N.J.R. 3280(a), 33 N.J.R. 4331(a). Subchapter 2, was recodified to Chapter 22, Student Residency, by R.2004 d.377, effective October 4, 2004. See: 36 N.J.R. 2279(a), 36 N.J.R. 4448(a).

Chapter 28, School Ethics Commission, was readopted as R.2004 d.378 effective September 10, 2004. See: 36 N.J.R. 2285(a), 36 N.J.R. 4453(a).

Subchapter 7, Definition of Words and Terms Used in the Code of Ethics, was adopted as new rules, and former Subchapter 7, Appeals, was recodified as Subchapter 8, by R.2007 d.247, effective August 20, 2007. See: 39 N.J.R. 821(a), 39 N.J.R. 3513(a).

Chapter 28, School Ethics Commission, was readopted as R.2009 d.163, effective April 21, 2009. As a part of R.2009 d.163, Subchapter 6, Filing, Service and Review of Complaints, was repealed and Subchapter 6, Filing and Amendment of Complaints; Burden of Proof, was adopted as new rules; Subchapter 7, Definition of Words and Terms Used in the Code of Ethics, was repealed and Subchapter 7, Filing of Answers, was adopted as new rules; former Subchapter 8, Appeals, was recodified as Subchapter 11; and Subchapter 8, Motion to Dismiss, Subchapter 9, Subpoenas and Subchapter 10, Review of Complaints, were adopted as new rules, effective May 18, 2009. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 28, School Ethics Commission, was scheduled to expire on April 21, 2016. See: 43 N.J.R. 1203(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 6A:28-1.1 Scope and purpose
- 6A:28-1.2 Definitions

- 6A:28-1.3 Functions and authority of the School Ethics Commission
- 6A:28-1.4 Jurisdiction of the School Ethics Commission
- 6A:28-1.5 Abeyance
- 6A:28-1.6 Order to Show Cause
- 6A:28-1.7 Proof of service
- 6A:28-1.8 Relaxation of rules
- 6A:28-1.9 through 6A:28-1.16 (Reserved)

SUBCHAPTER 2. BY-LAWS OF THE SCHOOL ETHICS COMMISSION

- 6A:28-2.1 Members
- 6A:28-2.2 Chairperson
- 6A:28-2.3 Meetings
- 6A:28-2.4 Committees

SUBCHAPTER 3. FILING OF DISCLOSURE STATEMENTS

- 6A:28-3.1 Procedures for filing of disclosure statements
- 6A:28-3.2 Duties of district boards of education and charter schools
- 6A:28-3.3 Procedures in the event of failure to file disclosure statements
- 6A:28-3.4 Procedures in the event of incomplete filing

SUBCHAPTER 4. BOARD MEMBER TRAINING

- 6A:28-4.1 Training requirement
- 6A:28-4.2 Procedures for compliance

SUBCHAPTER 5. ADVISORY OPINIONS

- 6A:28-5.1 Entitlement to an advisory opinion
- 6A:28-5.2 Procedures for requesting and receiving an opinion

SUBCHAPTER 6. FILING AND AMENDMENT OF COMPLAINTS; BURDEN OF PROOF

- 6A:28-6.1 Who may file a complaint
- 6A:28-6.2 Process for the filing of a complaint
- 6A:28-6.3 Contents of a complaint
- 6A:28-6.4 Complainant's burden of proof for complaints alleging a violation of the code of ethics for school board members
- 6A:28-6.5 Time period for the filing of a complaint
- 6A:28-6.6 Complaint processing, consolidating and confidentiality
- 6A:28-6.7 Amendment of a complaint

SUBCHAPTER 7. FILING OF ANSWERS

- 6A:28-7.1 Process for filing an answer
- 6A:28-7.2 Contents of an answer
- 6A:28-7.3 Time for filing an answer
- 6A:28-7.4 Extension of the time for filing an answer

SUBCHAPTER 8. MOTION TO DISMISS

- 6A:28-8.1 Process for filing a motion to dismiss
- 6A:28-8.2 Process for responding to a motion to dismiss
- 6A:28-8.3 Commission review of a motion to dismiss

SUBCHAPTER 9. SUBPOENAS

- 6A:28-9.1 Subpoenas to compel the attendance of witnesses, production of documents; issuance, contents and service

SUBCHAPTER 10. REVIEW OF COMPLAINTS

- 6A:28-10.1 Duties of complainant(s) and respondent(s) relative to N.J.A.C. 6A:28-1.5
- 6A:28-10.2 Administrative dismissals
- 6A:28-10.3 Evidence rules

- 6A:28-10.4 Frivolous filings
- 6A:28-10.5 Settlement
- 6A:28-10.6 Withdrawal
- 6A:28-10.7 Processing of complaints alleging solely prohibited acts
- 6A:28-10.8 Processing of complaints alleging solely a violation of the code of ethics for school board members
- 6A:28-10.9 Processing of complaints alleging both prohibited acts and a violation of the code of ethics for school board members
- 6A:28-10.10 Adjournment of hearings
- 6A:28-10.11 School Ethics Commission determinations on complaints
- 6A:28-10.12 Sanction

SUBCHAPTER 11. APPEALS

- 6A:28-11.1 Procedure for appeal

SUBCHAPTER 1. GENERAL PROVISIONS

6A:28-1.1 Scope and purpose

(a) The rules set forth in this subchapter have been adopted for the purpose of effectuating the legislative intent of N.J.S.A. 18A:12-21 et seq., the School Ethics Act (P.L. 1991, c.393), which seeks to "... ensure and preserve public confidence ..." in the integrity of elected and appointed school board members and school administrators.

(b) To achieve this goal, the Legislature has adopted N.J.S.A. 18A:12-24 and 18A:12-24.1, which prescribe ethical standards by which school officials are to be guided in the conduct of their offices and positions and created a School Ethics Commission specifically for the purpose of enforcing those ethical standards through a procedure for reviewing complaints of ethical violations, investigating those complaints and ultimately rendering recommendations to the Commissioner as to the imposition of sanctions when violations are demonstrated.

Amended by R.2004 d.378, effective October 4, 2004.
See: 36 N.J.R. 2285(a), 36 N.J.R. 4453(a).

In (b), inserted "and 18A:12-24.1," following "N.J.S.A. 18A:12-24".
Amended by R.2009 d.163, effective May 18, 2009.

See: 41 N.J.R. 26(a), 41 N.J.R. 699(a), 41 N.J.R. 2095(a).

In (b), inserted a comma following "goal" and substituted "ethical standards" for "a code of ethics".

Case Notes

School board member whose wife was employed as secretary by board was censured for participating in closed-door session of board concerning salary negotiations with bargaining unit representing district employees. In the Matter of Robert A. Wilgus, 96 N.J.A.R.2d (EDU) 1041.

School board member was reprimanded on conflict of interest grounds for submitting his wife's name for consideration as candidate for part-time position and for later voting to hire her for that position. In the Matter of Frank Montagna, 96 N.J.A.R.2d (EDU) 1038.

School board member whose wife was employed by district as teacher was reprimanded on conflict of interest grounds for participating in discussion and negotiation of collective bargaining agreement. In the Matter of Edward Vanderbeek, 96 N.J.A.R.2d (EDU) 1035.

Removal of school board member on conflict of interest grounds was justified where board member was involved in suit against board concerning his granddaughter's attendance of district schools while allegedly not domiciled in district. Point Pleasant Board of Education v. Ciliberto, 96 N.J.A.R.2d (EDU) 990.

School board's denial of employment to applicant based on nepotism policy was warranted even though applicant was related to prospective supervisor by marriage only. Carroll v. Board of Education of the City of Trenton, 96 N.J.A.R.2d (EDU) 901.

Reprimand was appropriate penalty for new school board member who violated School Ethics Act. In the Matter of Harrison, 96 N.J.A.R.2d (EDU) 553.

School district administrators and board members do not violate school ethics law by failing to report incident where school board member attended underage drinking party. The School Ethics Commission v. McIvor, 96 N.J.A.R.2d (EDU) 143.

School board member not disqualified if not directly or indirectly interested in son's medical claims against board. Brick Township Board of Education v. Mercer, 96 N.J.A.R.2d (EDU) 5.

Member of school board who was owner of school district's only newspaper publishing official school notices was in conflict of interest subject to removal. Brick Board of Education v. Mueller, 95 N.J.A.R.2d (EDU) 222.

Employment for company under contract with board of education; board membership. Andrews v. Union Township Board of Education, 94 N.J.A.R.2d (EDU) 315.

Employment as bus driver for transportation company under contract with Board was conflict of interest. Andrews v. Union Township Board of Education, 94 N.J.A.R.2d (EDU) 315.

Indirect interest in litigation disqualified newly elected member. Hawthorne Borough Board of Education v. Taliaferro, 94 N.J.A.R.2d (EDU) 197.

Lessee of space from Board of Education disqualified from seeking election to Board. Thomas v. Edwards, 93 N.J.A.R.2d (EDU) 369.

Municipal counsel precluded from seeking election to Board of Education. Rodecker v. Gonzalez, 93 N.J.A.R.2d (EDU) 367.

6A:28-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Act" means N.J.S.A. 18A:12-21 et seq., the School Ethics Act (P.L. 1991, c. 393).

"Administrator" means any officer, other than a board member, or employee of a local school district or charter school who:

1. Holds a position which requires a certificate that authorizes the holder to serve as school administrator, principal, or school business administrator; or
2. Holds a position which does not require that the person hold any type of certificate but is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by the local school district; or