

**CHAPTER 3  
SCHOOL DISTRICTS**

**Authority**

N.J.S.A. 18A:4-10, 18A:4-15, 18A:6-10, 18A:6-50, 18A:7A-1, 18A:7A-1.1, 18A:10-6, 18A:12-21 et seq., 18A:13-14, 18A:16-1, 18A:17-14 to 14.3, 18A:27-15, 18A:17-17, 18A:17-20, 18A:17-32, 18A:22-14, 18A:22-19, 18A:22-22, 18A:24-11, 18A:28-9 to 28-13, 18A:29-6 to 29-16, 18A:40-12.1 and 18A:49-1 to 49-8.

**Source and Effective Date**

R.1999 d.342, effective September 10, 1999.  
See: 31 N.J.R. 1662(a), 31 N.J.R. 2917(a).

**Executive Order No. 66(1978) Chapter Expiration Date**

Chapter 3, School Districts, expires on September 10, 2004.

**Chapter Historical Note**

Chapter 3, School Districts, became effective prior to September 1, 1969.

Subchapter 2, Pupil Records, was adopted as R.1975 d.124, effective May 16, 1975. See: 6 N.J.R. 465(a), 7 N.J.R. 251(b).

Subchapter 3, Withdrawal from Limited Purpose Regional School Districts, was adopted as R.1976 d.286, effective September 8, 1976. See: 8 N.J.R. 458(a).

Subchapter 4, Supervision, Senior Citizens' Transportation, was adopted as R.1977 d.129, effective April 13, 1977. See: 9 N.J.R. 113(a), 9 N.J.R. 212(b).

Pursuant to Executive Order No. 66(1978), this chapter was readopted as R.1983 d.248, effective June 3, 1983. See: 15 N.J.R. 376(a), 15 N.J.R. 1016(b).

Pursuant to Executive Order No. 66(1978), Subchapter 3, Withdrawal from Limited Purpose Regional School Districts, was readopted as R.1983 d.368, effective August 18, 1983. See: 15 N.J.R. 728(a), 15 N.J.R. 1468(c).

Subchapter 5, Reporting of Allegations of Child Abuse, was adopted as R.1989 d.193, effective April 3, 1989. See: 21 N.J.R. 3(b), 21 N.J.R. 892(a).

Subchapter 6, Enforcement of Drug Free School Zones, was adopted as R.1989 d.354, effective July 3, 1989. See: 21 N.J.R. 817(a), 21 N.J.R. 1824(b).

Subchapter 7, Provisions for the Education of Homeless Children and Youth, was adopted as R.1990 d.615, effective December 17, 1990. See: 22 N.J.R. 2630(a), 22 N.J.R. 3734(b).

Chapter 3, School Districts, was repealed and replaced by new rules pursuant to Executive Order No. 66(1978) as R.1993 d.272, effective June 7, 1993. See: 25 N.J.R. 1095(a), 25 N.J.R. 2249(a).

Subchapter 9, School Ethics Commission, 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 4A, Promotion and High School Graduation Requirements and Procedures, was recodified from N.J.A.C. 6:8-7 by R.1998 d.457, effective September 8, 1998. See: 30 N.J.R. 1479(a), 30 N.J.R. 261(b).

Subchapter 8, Provisions for the Education of Homeless Children and Youth, was recodified as N.J.A.C. 6:5 by R.1999 d.296, effective September 7, 1999. See: 31 N.J.R. 1409(a), 31 N.J.R. 2640(a).

Pursuant to Executive Order No. 66(1978), Subchapters 1 through 7 and Subchapter 9 were readopted as R.1999 d.342, effective September 10, 1999. Subchapter 9, School Ethics Commission, was recodified as Subchapter 8, School Ethics Commission, by R.1999 d.342, effective October 4, 1999. See: Source and Effective Date. See, also, section annotations.

See section annotations for specific rulemaking.

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## SUBCHAPTER 9. (RESERVED)

## SUBCHAPTER 1. BOARDS OF EDUCATION

### 6:3-1.1 Board of school estimate

In any district board of education operating under N.J.S.A. 18A:9-2, the mayor of the municipality comprising the school district shall be the presiding officer of the board of school estimate, and in the event of the absence of the mayor at any meeting of the board of school estimate, the members thereof present at such meeting shall proceed to elect a presiding officer pro tem.

#### Case Notes

Rescission of candidate's withdrawal from school board election affirmed. *Monaghan v. Board of Education of Ridgefield Park*, 97 N.J.A.R.2d (EDU) 471.

School board's bylaws providing for agenda meeting before holding regular board meeting not legally enforceable. *Sooy v. Mainland Regional High School District*, 97 N.J.A.R.2d (EDU) 295.

Commissioner of Education could not intervene in school board's decision not to extend minibus service where decision was not proven unreasonable. *Shrewsbury v. Board of Education of Holland Township*, 96 N.J.A.R.2d (EDU) 795.

Failure to rehire recovered disability retiree was within school board's discretion. *Bublin v. Board of Education of the Borough of Point Pleasant*, 96 N.J.A.R.2d (EDU) 768.

School board's policy to ban backpacks in interest of safety constituted valid exercise of discretion. *Board of Education of Bernards Township v. C.M.*, 96 N.J.A.R.2d (EDU) 762.

Post-referendum change from two-story plan to one-story plan for new school was within school board's discretion. *Shuster v. Montgomery Township Board of Education*, 96 N.J.A.R.2d (EDU) 670.

Appointment of school board member by lame-duck mayor with less than one month remaining in his term. *Cordasco v. Board of Education of the Town of West New York*, 96 N.J.A.R.2d (EDU) 661.

Open Public Meeting Act was not violated by socializing after board of education meeting. *Kesselman v. Edison, Township Board of Education*, 96 N.J.A.R.2d (EDU) 436.

School board member not entitled to legal expenses incurred for personal reasons rather than in line of duty. *Quick v. Old Bridge Township Board of Education*, 96 N.J.A.R.2d (EDU) 116.

Employment as deputy fire chief did not place individual in conflict of interest so as to disqualify him from seeking election to school board. *Battiloro v. Westfield Board of Education*, 95 N.J.A.R.2d (EDU) 445.

Functions and duties as school business administrator and as mayor were inherently antagonistic and warranted administrator's suspension for conflict of interest. *Irvington Municipal Council v. Steele*, 95 N.J.A.R.2d (EDU) 123.

Bus driver for transportation company under contract with district board was not automatically ineligible for board membership. *Union Board of Education v. Andrews*, 95 N.J.A.R.2d (EDU) 350.

Submission date for nominating petitions for school board membership; insufficient signatures and subsequent registration of signers. *Jones v. Peddle*, 94 N.J.A.R.2d (EDU) 362.

Local school boards could not aggregate health coverage. *Millstone Township Teachers Association v. Millstone Township Board of Education*, 93 N.J.A.R.2d (EDU) 802.

Police officer assigned as security officer at high school was not disqualified from membership on board of education. *Ubal dini v. Cancel*, 93 N.J.A.R.2d (EDU) 457.

Board employee and union official not qualified to seek election to Board. *Board of Education of Township of Howell v. Suchcicki*, 93 N.J.A.R.2d (EDU) 157.

No disqualifying conflict of interest between police officer's membership on board of education and providing security services. *North Brunswick Township Education Association v. Board of Education of Township of North Brunswick*, 93 N.J.A.R.2d (EDU) 74.

Board of education membership; conflict of interest; law suit. *Board of Education of Township of Jackson, Ocean County v. Acevedo*, 92 N.J.A.R.2d (EDU) 163.

### 6:3-1.2 Special meetings of district boards of education

In every school district of the State, it shall be the duty of the secretary of the board of education to call a special meeting of the board whenever requested by the president of the board to do so or whenever there shall be presented to such secretary a petition signed by a majority of the whole number of members of the district board of education requesting the special meeting. Public notice of such special meeting shall be made pursuant to law and regulation. In accordance with N.J.S.A. 18A:10-6, the public notice shall include the date, time, location, and purpose(s) of the special meeting.

Amended by R.1999 d.342, effective October 4, 1999.

See: 31 N.J.R. 1662(a), 31 N.J.R. 2917(a).

Updated a reference.

#### Case Notes

School board acted improperly and in violation of open meeting requirements by discussing public business after meeting had officially ended. *Davis v. Willingboro Board of Education*, 95 N.J.A.R.2d (EDU) 352.

3. The racial composition of the pupil population enrolled in the regional district from the withdrawing district or municipality, and the effect of such withdrawal upon the racial composition of the remaining pupil population of the regional district;

4. Two appraisals of each school site which is part of the regional district prepared by qualified appraisers. If two or more constituent districts or municipalities request such a study, the selection of the appraisers and the cost of the required appraisals shall be made and shared jointly; and

5. The proposed educational plan for the pupils from the withdrawing district or municipality presently enrolled in the school or schools of the regional district.

(b) Within 21 days following adoption of such resolution, such body shall confer with the remaining constituent districts and/or the governing bodies of the constituent municipalities, and the regional board of education and the county superintendent to review the procedure required for withdrawal from a regional school district. Such conference may be called by the county superintendent at the request of a constituent district or municipality prior to its adoption of such resolution.

#### Case Notes

Request for severance of sending-receiving relationship between districts denied. *Bloomington Borough Board of Education v. Butler Borough Board of Education*, 94 N.J.A.R.2d (EDU) 553.

Negative racial impact of terminating sending-receiving agreement precluded termination, even though no financial or educational negative impact was shown. *Board of Education of Borough of Merchantville v. Board of Education of Township of Pennsauken*, 93 N.J.A.R.2d (EDU) 464.

#### 6:3-7.2 Investigation and report by county superintendent of schools

(a) Upon receipt of the resolution and accompanying data pursuant to N.J.A.C. 6:3-7.1, the county superintendent shall make an investigation and shall within 60 days after receipt of such request issue a report, in accordance with N.J.S.A. 18A:13-52 or 18A:13-67, to governing bodies of the municipalities constituting the regional district and the board of education of the regional district. If the county superintendent's report addresses the withdrawal of a constituent district or districts from a limited purpose regional district, the report shall also be issued to the boards of education of the constituent district. When the county superintendent has begun such investigation, no action shall be taken upon a subsequent request from another constituent district or municipality of the same regional district until the investigation, report and action thereon have been completed. This report shall be based on data supplied by the petitioning district(s) or municipality(ies) including, but not limited to, the following:

1. A general description of the regional district, including the number of constituent districts, schoolhouses, area of the total district, and area of the withdrawing district or municipality;

2. Enrollment data, including the number of pupils enrolled as reported by grade on the Annual Application for State School Aid and estimated projected enrollment, by grade level, for the succeeding five school years for both the withdrawing district or municipality and the remaining regional district, based on growth factors using average percentages for the last three school years;

3. Enrollment data, by grade level, showing the racial composition of the present regional pupil population and the resulting racial composition for both the withdrawing district or municipality and the remaining regional district if withdrawal is approved;

4. The operating expenses of the regional district for the present school year including the distribution of such current operating expenses among the constituent districts or municipalities;

5. The equalized valuation of each constituent district or municipality of the regional district as set forth in N.J.S.A. 18A:7F-1 et seq.;

6. The average equalized valuations of the real property of each constituent district or municipality of the regional district as set forth in N.J.S.A. 18A:24-1 et seq.;

7. The borrowing margin of each constituent district or municipality of the regional district as determined by N.J.S.A. 18A:24-1 et seq., and the revised borrowing margin of each constituent district or municipality and the withdrawing district or municipality, if approval is granted;

8. The apportionment of debt service for the current school year among all the constituent districts or municipalities of the regional district by dollar amounts and percentages;

9. The replacement costs of schoolhouses and additions, grounds, furnishings and equipment of the regional district, and the replacement cost of any schoolhouse, and additions of the regional district including grounds, furnishings, and equipment, situated in the withdrawing district or municipality. School building replacement costs will be calculated by the Bureau of Facility Planning Services as follows:

i. The current overall cost per square foot for school construction in New Jersey, updated annually in the fall of each year, will be multiplied by the gross area of the building;

ii. This figure will include construction costs, moveable and built-in furniture and equipment, and fees; and

iii. Site costs will be excluded since they are already included under N.J.A.C. 6:3-7.1(a)4;

10. The amount of indebtedness, if any, to be assumed by the withdrawing constituent district or municipality;

11. The distribution of assets and liabilities of the existing regional district and remaining regional district following withdrawal in the manner as provided by N.J.S.A. 18A:8-24;

12. A proposed educational plan for the withdrawing constituent district or municipality, if withdrawal is approved, including the effects of such withdrawal upon the educational program of the remaining regional district;

13. A summary of the advantages of withdrawal to both the withdrawing constituent district or municipality and the remaining regional district and the disadvantages to the withdrawing constituent district or municipality and the remaining regional district; and

14. A recommendation regarding the request for withdrawal from the regional school district by the county superintendent.

(b) Upon adoption of a resolution, in accordance with N.J.S.A. 18A:13-51 or 13-66, the board of education of the regional school district shall not incur any additional indebtedness for capital projects, pending either the rejection of the proposal at a special school election or an effective date of withdrawal as determined by the Commissioner of Education.

Amended by R.1999 d.342, effective October 4, 1999.

See: 31 N.J.R. 1662(a), 31 N.J.R. 2917(a).

In the introductory text of (a) and in (a)5, updated references.

#### Case Notes

Local school district lacked authority to issue bonds to finance proposed payment to regional district upon favorable vote. Winslow Tp. Bd. of Educ. v. Board of Review, 275 N.J.Super. 206, 645 A.2d 1230 (A.D.1994).

#### 6:3-7.3 Special school election

(a) If the application is granted upon completion of the procedures contained in N.J.S.A. 18A:13-54 to 56 or 18A:13-69 to 71, the county superintendent shall confer with the regional board and the boards of education of the constituent districts of a limited purpose regional district or the constituent municipal governing bodies of an all purpose regional district and fix a day and time for holding a special school election, in accordance with the provisions of N.J.S.A. 18A:13-57 or 18A:13-72.

(b) To be effective the proposal must be adopted by a majority of the legal votes cast within the withdrawing constituent district or municipality, and, in addition, a majority of the combined legal votes cast within the remainder of the regional district.

#### 6:3-7.4 Final determination of board of review

The board of review, which shall consist of the Commissioner, who shall be chairperson, the State Treasurer or his or her designee, and the Director of the Division of Local Government of Community Affairs, shall include in its final determinations required by N.J.S.A. 18A:13-56 or 18A:13-71, any specific conditions under which its consent is granted in order to insure that a thorough and efficient system of public schools will be maintained in the withdrawing district(s) or municipality(ies) and the remaining regional district.

#### Case Notes

Section of statute allowing state Board of Education to deny petition for authorization to conduct referendum on dissolution of regional school district for "Any other reason which it may deem to be sufficient..." requires reason that implicates constitutional obligation for maintenance of thorough and efficient system of free public schools. In re Petition for Authorization to Conduct a Referendum on the Dissolution of Union County Regional High School Dist. No. 1, 298 N.J.Super. 1, 688 A.2d 1082 (A.D.1997).

School districts cannot agree to a two-year moratorium on opposition to severance of a sending/receiving relationship. Lincoln Park Board of Education v. Boonton Board of Education, 95 N.J.A.R.2d (EDU) 493.

Negative fiscal and educational consequences precluded severance of sending-receiving relationship between school districts. Bloomingdale Board of Education v. Butler Board of Education, 95 N.J.A.R.2d (EDU) 151.

Termination of sending-receiving relationship authorized. Board of Education of Township of Boonton v. Board of Education of Town of Boonton, 92 N.J.A.R.2d (EDU) 235.

#### 6:3-7.5 Effective date of withdrawal

If approved at said election, the withdrawal of the district or municipality shall become effective upon a date to be determined by the Commissioner of Education, pursuant to the provisions of N.J.S.A. 18A:13-59 or 18A:13-74.

## SUBCHAPTER 8. SCHOOL ETHICS COMMISSION

#### 6:3-8.1 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 which prescribes a code of ethics 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.

#### 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.

### 6:3-8.2 Definitions

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

"Administrator" means any officer, other than a board member, or employee of a local school district 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
3. Holds a position which requires a certificate that authorizes the holder to serve as supervisor and who is responsible for making recommendations regarding hiring

or the purchase or acquisition of any property or services by the local school district.

"ALJ" means an administrative law judge from the Office of Administrative Law.

"Board member" means any person holding membership, whether by election or appointment, on any board of education other than the State Board of Education.

"Censure" means a formal public action read into the record of the School Ethics Commission to rebuke a school official who has been determined by the Commission to have been in violation of N.J.S.A. 18A:12-21 et seq.

"Commission" means the School Ethics Commission and its staff as created pursuant to N.J.S.A. 18A:12-21 et seq.

"Commissioner" means the Commissioner of Education or his or her designee.

"Complainant" means the person bringing a complaint of alleged violation of N.J.S.A. 18A:12-21 et seq.

"Financial Disclosure Statement" means the statement of personal finances which school officials are required to annually file pursuant to N.J.S.A. 18A:12-21 et seq.

"Income" for purposes of these rules shall be as defined by the Internal Revenue Service except as otherwise provided in N.J.S.A. 18A:12-26a(1).

"Local School District" for purposes of these rules means any local or regional school district established pursuant to Chapter 8 or Chapter 13 of Title 18A of the New Jersey Statutes and shall include jointure commissions, county vocational schools, county special services districts, educational service commissions, educational research and demonstration centers, environmental education centers, and educational information and resource centers.

"Member of the immediate family" means the spouse or dependent child of a school official residing in the same household. Dependent child shall be defined as any child claimed as a dependent on the school official's Federal and state tax returns.

"Newly elected or appointed board member" means any board member who has never served as a member of either an elected or appointed school board.

"OAL" means the Office of Administrative Law.

"Personal/Relative Disclosure Statement" means the statement required by N.J.S.A. 18A:12-21 et seq. of a school official setting forth whether said official has a relative or any other person related to the school official by marriage, employed by the district in which he or she serves; whether said official or a relative is a party to a contract with the school district in which the school official holds office or

position; or whether the school official or a relative is employed by, receives compensation from, or has an interest in, any business which is a party to a contract with the school district in which the school official holds office or position.

“Related to the school official by marriage” as used in the statute shall be limited to mother-in-law, father-in-law, brother-in-law and sister-in-law.

“Relative” means the spouse, natural or adopted child, parent or sibling of a school district.

“Reprimand” as a sanction imposed by the Commissioner upon recommendation of the School Ethics Commission shall consist of a letter from the Commission rebuking a school official for having been found to have breached the standards of conduct prescribed by N.J.S.A. 18A:12-21 et seq.

“Respondent” means the board member or administrator against whom a complaint is made pursuant to N.J.S.A. 18A:12-21 et seq.

“School official” means a board member or an administrator.

“Spouse” means the person to whom the school official is legally married under New Jersey law.

#### Case Notes

Conflict of interest; board member's spouse employed as teacher and belonged to teachers' association. *Hahn v. North Brunswick Township Board of Education*, 92 N.J.A.R.2d (EDU) 428.

### 6:3-8.3 Filing of disclosure statements and procedures in the event of incomplete filing or failure to file disclosure statements

(a) Annually, on or before April 30th of each year or as otherwise provided in these rules all school officials shall file, on forms provided through the county superintendent both a Financial Disclosure Statement and a Personal/Relative Disclosure Statement with the Commission. Additional copies of the aforesaid statements shall be prepared by the school official and maintained on file at the local district and the office of the county superintendent in order to facilitate public access to the documents. All disclosure statements filed in accordance with N.J.S.A. 18A:12-21 et seq. and these rules shall be public records.

(b) In order to comply with the requirement in (a) above, each local district board secretary shall annually, on or before February 1, cause to be developed and transmitted to the county superintendent a list of names of those school officials, by office and position, whose responsibilities would require the filing of the Financial and Personal/Relative Disclosure Statements pursuant to the criteria contained in N.J.S.A. 18A:12-21 et seq. and these rules. Offices and positions vacant or to become vacant by virtue of expiration of terms or personnel leaving the district are to be listed.

(c) Board members in Type II school districts elected to their positions in the annual April school election shall file within 30 days of taking office. The board secretary shall, upon election of new board members, inform the county superintendent of the names of the newly elected members and the county superintendent shall provide the forms necessary for compliance.

(d) Board members in Type II districts who are appointed to fill vacancies will file the requisite disclosure forms within 30 days of taking office. The board secretary will upon such appointment inform the county superintendent of the appointment. The county superintendent shall provide the member with the required disclosure statements.

(e) Board members in Type I school districts who are initially appointed to take office on May 16 or June 1 as the case may be, shall file the required disclosure statements within 30 days of taking office. Board members in Type I districts appointed to fill vacancies shall likewise file within 30 days of taking office. The board secretary shall inform the county superintendent of the appointment of new board members and the county superintendent shall provide the required forms.

(f) Administrators as defined in this subchapter, appointed to fill vacancies after the April 30 filing date shall file the required disclosure forms within 30 days of the appointment. The board secretary shall inform the county superintendent of the appointment of any new administrators or supervisors subject to the requirement to file disclosure statements under the School Ethics Act.

(g) On or before April 30, May 16 or June 1 as the case may be, the board secretary of each local school district shall, before transmitting the completed disclosure forms to the county superintendent, check that he or she has reviewed each disclosure form to assure that both required forms have been filed; that all questions have been answered or indicated as not being applicable; and that each copy is signed by an original signature. Further, the board secretary shall provide to the county superintendent the names of all persons on the February 1 list of school officials compiled in accordance with (b) above and all newly elected or appointed persons who have failed to file as required by N.J.S.A. 18A:12-21 et seq.

(h) Failure to file as prescribed by N.J.S.A. 18A:12-21 et seq. shall constitute a violation of the School Ethics Act and shall result in the suspension and/or removal of a school official upon recommendation of the Commission and affirmation of the Commissioner.

(i) Prior to any action taken by the Commission for failure to file, the Commission shall direct that the school official show cause in writing under oath within 20 days why the penalty of suspension and/or removal should not be imposed. The Order to Show Cause shall be considered the equivalent of the complaint required by N.J.S.A. 18A:12-29.

(j) Upon receipt of the response to the Order to Show Cause or upon expiration of the time period for so filing the Commission shall proceed to a determination. The school official shall be advised of his or her right to appear before the Commission, be represented by counsel and present witnesses on his or her behalf prior to the Commission's making its probable cause determination.

(k) If the Commission determines that a filing is incomplete, it shall first return the filing to the school official for completion within 20 days of receipt of the returned filing. At the expiration of such time period or upon further receipt of a filing which fails to provide such information as required by statute, the Commission shall issue an order directing the school official in writing under oath to show cause within 20 days why the Commission should not impose such sanctions as permitted pursuant to N.J.S.A. 18A:12-29. If such order is not returned within the 20-day period, or if the response is returned with the school official's refusal to properly file, the Commission may assume that the school official's incomplete filing is in effect a failure to file and the Commission shall proceed to a determination. The school official shall be advised of his/her right to appear before the Commission, be represented by counsel and present witnesses on his/her behalf.

(l) If the school official responds to the Order to Show Cause by asserting either that the filing is complete or other appropriate factors, the matter shall be included as a contested case under N.J.S.A. 18A:12-29(b) and transmitted to the Office of Administrative Law for a hearing pursuant to N.J.A.C. 6:3-8.18 and 8.19.

Amended by R.1999 d.342, effective October 4, 1999.  
See: 31 N.J.R. 1662(a), 31 N.J.R. 2917(a).

In (l), updated references.

#### 6:3-8.4 Board member training

(a) Each newly elected or appointed board member shall during the first year of his or her first term on any board complete a training program prepared and offered by the New Jersey School Boards Association which shall include in its content instruction relative to the board members responsibilities under the School Ethics Act.

(b) The New Jersey School Boards Association shall notify the board secretary in writing, when newly elected or appointed board members have attended a training program that satisfies the training mandate. The board secretary shall transmit the names to the county superintendent of the board member(s) who have completed the requirement.

(c) By March 31 of each year the New Jersey School Boards Association shall present to the School Ethics Commission a list of those board members who have not fulfilled the training mandate for the previous filing period.

(d) Board members failing to comply with the training mandate shall be considered in violation of N.J.S.A.

18A:12-33. The Commission shall proceed thereafter in conformance with the procedures set forth in N.J.A.C. 6:3-9.3(i).

Amended by R.1999 d.342, effective October 4, 1999.

See: 31 N.J.R. 1662(a), 31 N.J.R. 2917(a).

In (a), deleted "full" preceding "term".

#### Case Notes

Employee of company providing school bus services was required to cure the conflict of interest. *Oehlke v. Tewksbury Township School Board of Education*, 93 N.J.A.R.2d (EDU) 792.

#### 6:3-8.5 Functions and authority of School Ethics Commission

(a) Pursuant to the provisions of N.J.S.A. 18A:12-21 et seq. the School Ethics Commission shall:

1. Prescribe a Financial Disclosure Statement and a Personal/Relative Disclosure Statement in accordance with N.J.S.A. 18A:12-26 and 25 respectively, to be filed by all school officials as defined herein on or before April 30 of each year or at such other times as these rules may require;

2. Appoint such professional and clerical staff and incur such expenses as may be necessary to carry out the provisions of N.J.S.A. 18A:12-21 et seq. within the limits of funds appropriated or otherwise made available to it. All appointments shall be made in accordance with the provisions of Title 11A of the New Jersey Statutes;

3. Issue advisory opinions, receive and investigate complaints raised pursuant to section 9 of the School Ethics Act (N.J.S.A. 18A:12-29) and conduct such hearing as may be necessary to determine whether probable cause exists to credit the allegation raised in any complaint brought before it;

4. Receive and retain disclosure statements required by the Act. Requests for copies of disclosure statements will be subject to copying fees pursuant to N.J.S.A. 47:1A-1 et seq.;

5. Have the authority to compel the attendance of such witnesses and the production of such documents as it may deem necessary and relevant to carrying out its duties under the Act;

6. Be empowered, along with the persons appointed by it, to administer oaths and examine witnesses under oath; and

7. Recommend to the Commissioner the reprimand, censure, suspension or removal of school officials found to have violated the School Ethics Act.

#### 6:3-8.6 Membership of School Ethics Commission

The School Ethics Commission shall consist of nine members appointed for three year terms in the configuration and manner prescribed by N.J.S.A. 18A:12-21 et seq.

**6:3-8.7 Officers of School Ethics Commission**

(a) In accord with the provisions of N.J.S.A. 18A:12-21 et seq. the Commission, by majority vote, shall elect one member to serve as chairperson for a term not to exceed one year.

(b) Should the chairperson resign or otherwise be unable to serve out his or her term, the remaining Commission members shall, by majority vote, elect a chairperson from among their membership to fill out the remainder of the unexpired term.

(c) Should the chairperson be unable to attend any regular or special meeting of the Commission, the Commission, by majority vote of the quorum present, shall select a temporary chairperson to preside over the meeting.

**6:3-8.8 Duties of chairperson**

The chairperson shall preside over the meetings of the Commission and shall perform all duties incidental to that office.

**6:3-8.9 Term of office of chairperson**

The chairperson shall serve a one-year term which shall commence on July 1 of each year.

**6:3-8.10 Regular meetings**

Regular monthly meetings shall be held at such time, place and on such dates as established by the Commission and notice of such regular meetings shall be made in accordance with N.J.S.A. 10:4-6 et seq., Open Public Meetings Act.

**6:3-8.11 Special meetings**

Special meetings may be called by the Commission chairperson at any time or at the request of any three members. Three days notice of any special meeting shall be given to each member. Public notice of such special meeting shall be made pursuant to N.J.S.A. 10:4-8.

**6:3-8.12 Quorum**

A quorum shall consist of a majority of the number of voting members of the Commission.

**6:3-8.13 Committee structure**

(a) The Commission shall act as a committee of the whole.

(b) The Commission chairperson shall select a nominating committee of three persons whose function it shall be to select a nominee for chairperson to present to the committee as a whole for approval at its May meeting.

(c) Special committees may be appointed by the chairperson to consider and make recommendations to the Commission on any matter.

**6:3-8.14 Advisory opinions**

(a) Any school official may request an advisory opinion from the Commission as to whether any proposed conduct or activity would constitute a violation of the provisions of the School Ethics Act.

(b) Request for advisory opinions must clearly set forth in detail the specific conduct or activity the school official seeks to undertake and the exact role he or she will play in that activity or conduct.

(c) Upon receipt of a request for an advisory opinion, the Commission shall assign a file number to the request.

1. During the course of any staff work and/or Commission deliberation with regard to the request for an advisory opinion, the request shall be identified for purposes of public access only by file number and not by the name(s) of school official(s) involved.

2. No information regarding any request for an advisory opinion shall be made public unless the information is incorporated into the advisory opinion and made public in accordance with (e) and (f) below.

(d) The Commission and/or its staff reserves the right to require additional information from the person seeking an advisory or to require the person's appearance before it or its staff.

(e) Advisory opinions issued by the Commission shall not be made public unless six members shall vote to direct the opinion be made public.

(f) Advisory opinions made public by the Commission shall delete the name and district of the school official requesting the advisory.

(g) The Commission shall render a response to the request for an advisory opinion at its next monthly meeting following its receipt of all relevant information and documentation needed to make a determination on the request.

(h) Notwithstanding the foregoing, the Commission may respond to a request for an advisory opinion by referring the issue raised to the Office of the Attorney General.

**6:3-8.15 Filing and service of a complaint**

(a) To file a complaint with the School Ethics Commission alleging a violation of the School Ethics Act, N.J.S.A. 18A:12-21 et seq., a complainant must file an original and two copies of such complaint using the form set forth in N.J.A.C. 6:3-8.16. Any member of the Commission may also file a complaint.

(b) No complaint shall be accepted by the Commission unless it is signed under oath by the complainant.

(c) Upon receipt of the complaint the Commission shall serve a copy of the complaint on the school official or officials named.

(d) Upon receipt of a complaint the Commission shall assign a file number to the complaint.

1. During the course of any staff work and/or Commission deliberation with regard to the complaint, the complaint shall be identified only by file number for purposes of public access and not by the name(s) of the school official(s) involved.

2. No information regarding any complaint shall be made public until the Commission takes action in accordance with N.J.A.C. 6:3-8.18(d).

3. Pursuant to N.J.S.A. 18A:12-29(e) the Commission may impose a fine not to exceed \$500.00 for the filing of a frivolous complaint.

Amended by R.1999 d.342, effective October 4, 1999. See: 31 N.J.R. 1662(a), 31 N.J.R. 2917(a). In (a) and (d)2, updated references.

6:3-8.16 Complaint form

(a) The form used to file a complaint is as follows:

NAME OF COMPLAINANT(S) : BEFORE THE SCHOOL v. ETHICS COMMISSION NAME OF RESPONDENT(S) : OF NEW JERSEY COMPLAINT FORM

I, (Name of Complainant), residing at (Address and Phone Number of Complainant), request the School Ethics Commission to consider a complaint against the above-named Respondent whose address is (address of respondent), in accordance with the authority of the School Ethics Commission to entertain such complaints under N.J.S.A. 18A:12-21 et seq.

The facts upon which this complaint is based are as follows: (Set down below in individually numbered paragraphs the specific facts which cause you to believe that a violation of the School Ethics Act has occurred. Cite, if known to you, the section(s) of the Act which you believe to have been violated.)

- 1. 2. 3. 4.

WHEREFORE, I, as Complainant, request that the School Ethics Commission find and determine that the above-named Respondent has violated the School Ethics Act and that he/she be subject to such penalty as the

Commission and the Commissioner of Education deem appropriate.

Date Signature of Complainant or his or her Attorney

CERTIFICATION UNDER OATH

(Name of Complainant), of full age, being duly sworn upon his/her oath according to law deposes and says:

- 1. I am the complainant in this matter. 2. I have read the complaint and aver that the facts contained therein are true to the best of my knowledge and belief and I am aware that the statute which created the School Ethics Commission authorizes the Commission to impose penalties for filing a frivolous complaint. N.J.S.A. 18A:12-29e.

Date Signature of Complainant

Sworn and subscribed to before me this day of 19

Signature

(b) No complaint will be processed by the Commission nor will the Commission issue a final ruling or advisory opinion on any matter pending in any court of law or administrative agency of this State.

6:3-8.17 Answer to complaint

(a) Upon receipt of the complaint from the Commission, the respondent shall have 20 days within which to file an original and two copies of a written statement under oath with the Commission. Upon written application by the respondent, the Commission or its designee may extend the time for filing such statement.

(b) The respondent's statement shall respond directly to each allegation set forth in the complaint.

(c) The respondent shall not generally deny the allegations but shall set forth substantive reasons why the allegations are false or unfounded.

(d) Failure to respond to the complaint within the 20 day period from receipt of the complaint shall result in a notice to the respondent directing a response within 10 days of receipt.

(e) Further failure to respond shall result in a second notice which shall inform the respondent that unless an answer is received within 10 days of receipt of the second notice, each allegation in the complaint shall be deemed admitted and the Commission shall make a determination as

to whether probable cause exists or the complaint should be dismissed.

#### 6:3-8.18 Commission review

(a) Upon receipt of respondent's statement or the expiration of the time for filing such response, the Commission shall determine whether probable cause exists to credit the allegation in the complaint.

(b) In order to carry out the Commission's responsibilities under the Act to determine whether probable cause exists the Commission and/or its staff shall conduct investigations, hold hearings, compel the attendance of witnesses, and the production of documents and to examine such witnesses under oath.

(c) Prior to the Commission's determination of probable cause the respondent will be notified of his or her right to address the Commission, be represented by counsel and present witnesses on his/her behalf.

(d) Should the Commission find that probable cause does not exist, the Commission shall dismiss the complaint and so notify the complainant and the school official named in the complaint.

(e) Dismissal by the Commission shall constitute final agency action.

(f) Should the Commission determine that probable cause does exist, it shall refer the matter to the Office of Administrative Law for a hearing to be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and shall so notify the complainant and the school official(s) named in the complaint.

#### Case Notes

Contested case against member of school board with respect to ethics violations required an adjudicatory hearing before a penalty could be imposed. *Scannella v. Scudillo*, 95 N.J.A.R.2d (EDU) 190.

#### 6:3-8.19 Written decision

(a) Upon completion of the hearing before the OAL, the Commission shall determine by majority vote whether the conduct complained of constitutes a violation of the Act or whether the complaint should be dismissed. In rendering its decision the Commission shall be governed by the procedures and time constraints of the Administrative Procedure Act.

(b) The Commission's decision shall be in writing and it shall set forth its findings of fact and conclusions of law.

(c) If a violation is found, the Commission shall recommend to the Commissioner the reprimand, censure, suspension, or removal of the school official. The imposition of any of the foregoing sanctions shall require a vote of the majority of the full membership of the Commission.

1. The Commissioner's Resolution of Censure shall be adopted at the Commission's meeting next following the affirmance of the sanction by the Commissioner and shall be read at the next public meeting of the district board of education following its adoption by the Commission and posted in such places as the board posts its public notices.

(d) The Commissioner shall act upon the Commission's recommendation regarding the sanction.

(e) Any appeal of the Commission's determination regarding a violation of the Act or the Commissioner's decision regarding the sanction shall be to the State Board of Education in accordance with Title 18A of the New Jersey Statutes and the procedures set forth in N.J.A.C. 6:2.

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SUBCHAPTER 9. (RESERVED)