

CHAPTER 6C**DEPARTMENT OF EDUCATION
SCHOOL ETHICS COMMISSION HEARINGS****Authority**

N.J.S.A. 52:14F-5(e), (f) and (g).

Source and Effective Date

R.2005 d.211, effective June 6, 2005.
See: 37 N.J.R. 826(a), 37 N.J.R. 2465(a).

Chapter Expiration Date

Chapter 6C, Department of Education School Ethics Commission Hearings, expires on June 6, 2010.

Chapter Historical Note

Chapter 6C, Department of Education School Ethics Commission Hearings, was adopted as R.2000 d.65, effective February 22, 2000. See: 31 N.J.R. 3878(a), 32 N.J.R. 683(a).

Chapter 6C, Department of Education School Ethics Commission Hearings, was readopted as R.2005 d.211, effective June 6, 2005. See: Source and Effective Date.

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SUBCHAPTER 1. APPLICABILITY**1:6C-1.1 Applicability**

The rules in this chapter shall apply to any hearings arising under the School Ethics Act, N.J.S.A. 18A:12-21 et seq., and are established in implementation of the hearing procedures of that Act. Any aspect of the hearing not covered by these special rules shall be governed by the Uniform Administrative Procedure Rules (U.A.P.R.) contained in N.J.A.C. 1:1. To the extent that these rules are inconsistent with the U.A.P.R., these rules shall apply.

SUBCHAPTER 2. DEFINITIONS**1:6C-2.1 "Agency head" defined**

As used in this chapter, "agency head" means the School Ethics Commission with regard to the issue of whether conduct constitutes a violation of the School Ethics Act, and means the Commissioner of Education with regard to the imposition of penalty in those matters where the Commission has determined that a violation occurred.

SUBCHAPTERS 3 THROUGH 17. (RESERVED)**SUBCHAPTER 18. INITIAL DECISION;
EXCEPTIONS; FINAL DECISION; REMAND;
EXTENSIONS OF TIME LIMITS****1:6C-18.1 Initial decision**

(a) The initial decision shall include a determination as to whether the charged individual violated the School Ethics Act, and if so, the appropriate penalty for the violation.

(b) The written initial decision shall include the following statement:

"I hereby FILE my initial decision with the SCHOOL ETHICS COMMISSION and with the COMMISSIONER OF EDUCATION. Pursuant to N.J.S.A. 18A:12-29, the School Ethics Commission has jurisdiction to determine whether a violation of the School Ethics Act occurred. If it concludes that the conduct constitutes a violation of the School Ethics Act, it shall recommend an appropriate penalty to the Commissioner of Education. The Commissioner of Education shall issue the final decision with respect to penalty in this matter.

The recommendations of this decision as to whether the conduct constitutes a violation of the School Ethics Act may be adopted, modified or rejected by the SCHOOL ETHICS COMMISSION. If the School Ethics Commission does not adopt, modify or reject this decision within forty-five (45) days, and unless such time limit is otherwise extended, the recommendation of this decision as to whether a violation of the School Ethics Act occurred shall become final.

If the School Ethics Commission determines that a violation has occurred, it shall issue a written decision recommending to the Commissioner of Education an appropriate penalty and shall forward the record, including this recommended decision and its decision, to the Commissioner of Education. The Commissioner of Edu-

cation may subsequently render a final decision as to the appropriate penalty. If the Commissioner of Education does not render a final decision within forty-five (45) days of its receipt of the decision of the School Ethics Commission, and unless such time period is otherwise extended, the recommended decision of the School Ethics Commission shall become the final decision. Where the School Ethics Commission fails to act within the statutory time frame, and if the Commissioner fails to act within forty-five (45) days of the date of the School Ethics Commission decision was due, the decision of the administrative law judge shall become a final decision.

Within thirteen (13) days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the SCHOOL ETHICS COMMISSION, DEPARTMENT OF EDUCATION, PO BOX 500, Trenton, NJ 08625-0500, marked 'Attention: Exceptions.' A copy of any exceptions must be sent to the judge and to the other parties."

1:6C-18.2 Processing of decisions

(a) The initial decision shall be issued and received by the School Ethics Commission and the Commissioner of Education no later than 45 days after the hearing is concluded.

(b) Within 10 days after the initial decision is filed with the agency head, the Clerk shall certify the entire record with original exhibits to the School Ethics Commission.

(c) Following a final determination that a violation of the School Ethics Act has occurred, the School Ethics Commission shall forward a copy of the decision embodying its final determination and recommended penalty to the Commissioner of Education for review of such penalty. The School Ethics Commission shall also forward the entire record with all original exhibits to the Commissioner.

(d) At the time the decision is forwarded to the Commissioner, the Commission shall serve a copy of the decision on the parties and shall notify the parties that they shall have 13 days from the date of such notice to file exceptions.

1:6C-18.3 Exceptions; replies

(a) Within 13 days from the date the judge's initial decision was mailed to the parties, any party may file written exceptions regarding findings of fact, conclusions of law or recommendations of penalty to the Commission.

(b) Within 13 days from the date the Commission's decision is forwarded to the Commissioner, any party may file written exceptions regarding the recommended penalty to the Commissioner.

(c) If the Commission fails to issue a decision within 45 days of receipt of the initial decision, unless such time period is extended, any party may file written exceptions regarding the penalty recommended by the judge with the Commissioner within 13 days of the statutory due date for the Commission's decision.

(d) Within five days from receipt of exceptions, any party may file a reply with the appropriate agency head.

(e) Copies of all exceptions and replies shall be served on all other parties and the judge.

1:6C-18.4 Final decision

(a) Within 45 days after receipt of the initial decision, the Commission may enter an order or a decision adopting, rejecting or modifying the initial decision which shall determine whether the conduct constitutes a violation of the School Ethics Act and, if so, shall recommend to the Commissioner the reprimand, censure, suspension, or removal of the school official.

(b) If the Commission does not reject or modify the initial decision within 45 days, and unless the period is extended as provided by N.J.A.C. 1:1-18.8, the initial decision shall become a final decision as to the issue of whether a violation of the School Ethics Act occurred.

(c) Within 45 days of receipt of the Commission's decision, the Commissioner may enter a final decision adopting, modifying or rejecting the recommended penalty of the Commission. If the Commission failed to act within the statutory time period, the Commissioner may enter a final decision adopting, modifying or rejecting the recommended penalty of the administrative law judge within 45 days of the due date for the Commission's decision.

(d) If the Commissioner does not reject or modify the recommended penalty of the Commission within 45 days of receipt of that decision, the decision of the Commission shall become a final decision. If both the Commission and the Commissioner fail to act within the respective 45 day review periods, the initial decision of the administrative law judge shall become the final decision.