

**CHAPTER 28**  
**SCHOOL ETHICS COMMISSION**

**Authority**

N.J.S.A. 18A:12-34.

**Source and Effective Date**

R.2004 d.378, effective September 10, 2004.  
See: 36 N.J.R. 2285(a), 36 N.J.R. 4453(a).

**Chapter Expiration Date**

Chapter 28, School Operations, expires on September 10, 2009.

**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 by 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 by 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 by R.2004 d.378 effective September 10, 2004. See: 36 N.J.R. 2285(a), 36 N.J.R. 4453(a). See, also, section annotations.

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).

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**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 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.

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".

### 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.

"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

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 assigned by the Director of the Office of Administrative Law to preside over contested cases pursuant to N.J.S.A. 52:14F-1 et seq.

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

"Board of trustees" means the public agent authorized by the State Board of Education to supervise and control a charter school.

"Censure" means, except in the case of a school official who is an officer or employee of the New Jersey School Boards Association, a formal expression of disapproval by the Commissioner which is publicized by the adoption of a formal resolution by the School Ethics Commission and the school official's district board of education or the board of trustees of his charter school at a public meeting when said school official has been found to be in violation of N.J.S.A. 18A:12-21 et seq. In the case of a school official who is an officer or employee of the New Jersey School Boards Association, censure means a formal expression of disapproval by the School Ethics Commission publicized by the adoption of a formal resolution by the Commission at a public meeting.

"Charter school" means a public school established pursuant to N.J.S.A. 18A:36A-1 et seq. and which is operated under a charter granted by the Commissioner, that is independent of the district board of education and that is managed by a board of trustees.

"Charter school designee" means the person at the charter school whom the lead person designates as being responsible for assuring that school officials in the school file timely disclosure forms.

"Code of Ethics" means the standards of conduct set forth in the Code of Ethics for School Board Members established pursuant to P.L. 2001, c.178 (N.J.S.A. 18A:12-24.1).

"Commission" means the School Ethics Commission established pursuant to N.J.S.A. 18A:12-27.

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