

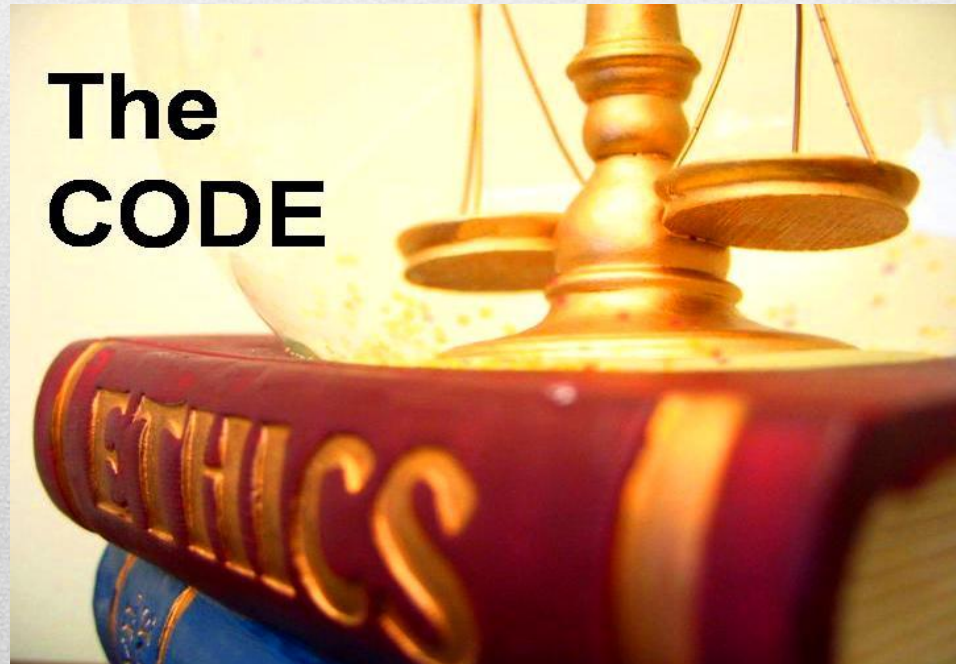
Trenton Board of Education

School Ethics Act & Code of Ethics for Board Members

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School Board Code of Ethics establishes standards for the conduct of school officials, which includes board members.



Penalties under School Ethics Act

N.J.S.A. 18A: 12-9(f)



The School Ethics Commission may recommend penalties to the Commissioner of Education:

Reprimand, censure, suspension or removal of any school official found to have violated the act.

The Commissioner of Education then acts on the Commission's recommendation regarding the sanction.

PROHIBITED ACTIONS UNDER THE SCHOOL ETHICS ACT



Substantial Conflict - N.J.S.A. 18A: 12-24(a)

No school official or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity which is in substantial conflict with the proper discharge of his duties in the public interest.

Analysis: The School Ethics Commission looks for an actual conflict between the substantive duties of the school official and the proposed activity. Turner v. Sacco, North Bergen Township Bd. of Ed., C24-95 (February 1996).

Anti-Nepotism – N.J.S.A. 18A:12-24(b)

No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others.

Violation: A board member was found to have violated N.J.S.A.18A:12-24(b) when she contacted the superintendent's office and requested a mailing list with student names and addresses and used the information to send out political campaign literature in support of her husband who was running for mayor. Russo, Hoboken Bd. of Ed., Hudson County, (February 2002).

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"Luck, son, is when preparation meets nepotism."

Code of Ethics:

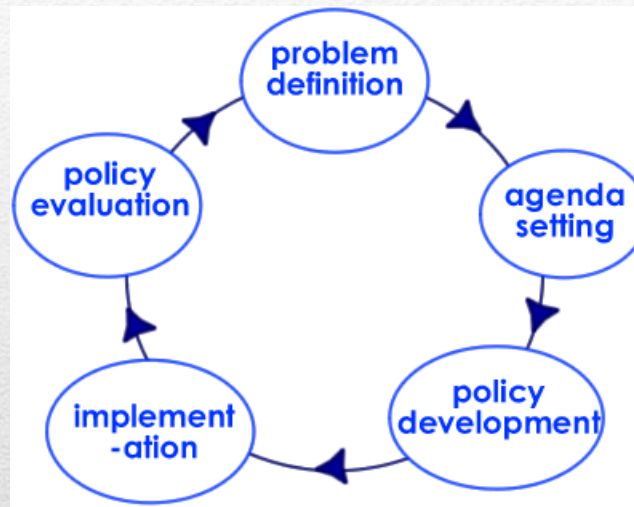
All school board member shall abide by the following Code of Ethics for School Board Members:

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.

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.

Planning and Development:



- 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.

Key: Consult with the Administration.

...Code of Ethics....

- 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.

The Commission's regulations require that:

“Factual evidence of a violation of shall include, but not be limited to, evidence that the respondent(s) gave a direct order to school personnel or became directly involved in activities or functions that are the responsibility of school personnel or the day-to-day administration of the school district or charter school.” N.J.A.C. 6A:28-6.4(a)4.

Collective Effort

- 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.

The Commission's regulations require that:

Factual evidence of a violation of N.J.S.A. 18A:12-24.1(e) shall include evidence that the respondent made personal promises or took action beyond the scope of his or her duties such that, by its nature, had the potential to compromise the board. N.J.A.C. 6A:28-6.4(a)5.



SEC Decisions Interpreting N.J.S.A. 18A:12-24 .1(e)

Board Members Conducting Investigations

In the Matter of Randie Zimmerman

Rocky Hill Township Board of Education President Randie Zimmerman investigated a complaint by a member of the public (her neighbor) regarding a possible fire code violation by one of the district's schools, and drafted a strongly worded response letter, which essentially adopted the public member's written complaint by condemning the "obvious fire code violation." The letter copied the superintendent and appeared to have the endorsement of the Board.

The Commission stated that even if one were to discredit the "assertion that Ms. Zimmerman represented...she was acting on behalf of her Board, there is sufficient evidence to sustain a finding that Ms. Zimmerman took private action that may compromise the Board...Ms. Zimmerman's writing of such a strongly worded letter and copying the county superintendent could have resulted in the revocation of the use of the room by the county superintendent."

The Commission concluded that even though Zimmerman was trying to do the right thing in making inquiries on behalf of a constituent, that "by signing the negative letter of the parents as if it were her own and adding her title of Board President, she went too far and violated the Code of Ethics." The investigatory matter should have been handled by the appropriate personnel.

The Commission recommended that the Commissioner of Education impose a penalty of reprimand for the violation of N.J.S.A. 18A:12-24.1(e).

-I/M/O Zimmerman, Docket Nos. C49-02 (Sch. Ethics Comm'n July 22, 2003)

Superior Court Decisions Interpreting N.J.S.A. 18A:12-24.1 (e) Board Members Involving Themselves In Personnel Matters

Persi v. Woska

Persi served as the interim superintendent at Brick Township School District. Woska was a Board member who anticipated that he would become Board President. Woska was dissatisfied with Persi's performance and wanted him terminated.

Prior to a reorganization meeting, Woska directed the newly elected School Business Administrator and newly elected Board Secretary to issue Persi a Rice notice, but never notified the current Board President, other Board members or Board counsel before taking this action. Woska also developed a similar tactic in finding a replacement for Persi.

The Commission determined that Woska violated the School Ethics Act by performing a personnel action which belonged to the Board (Rice notice) without the consent of the entire Board and therefore recommended a reprimand. Commissioner upheld SEC decision.

The Superior Court agreed with Commissioner defining Woska's conduct as a "private action," as it was an action taken by a board member that was beyond the scope of his authority and duties as a board member. Furthermore, the Court stated that even though the Board ended up voting in favor of Persi's termination, no ratification by the Board's vote could negate Woska's violation of the School Ethics Act.

-Persi v Woska, No. A-3767-14T2, 2017 WL 958498, at *1 (N.J. Super. Ct. App. Div. Mar. 10, 2017)

Code of Ethics

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.



Keep Confidential:

- 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.

SEC Decisions Interpreting N.J.S.A. 18A:12-24.1 (g)

Lesinski v Smallwood

Board member Lesinski alleged that the Board President Smallwood revealed confidential information from an executive session, where the Board discussed the appointment of candidates for the positions of Interim Superintendent and Assistant Superintendent. The two candidates that were discussed for consideration for the positions were the same individuals whose appointment had been previously overturned by the State Monitor. After rejecting the two candidates, the State Monitor clearly established a process for the Board to follow to reopen its search for a new Superintendent. One of the rejected candidates emailed Smallwood to schedule a site visit, and rather than follow the State Monitor's established process, Smallwood phoned both of the candidates to discuss her plans of hiring them and in planning the site visit with one of the candidates she revealed information that was discussed in the executive session.

The SEC stated that by telephoning the candidates, Respondent Smallwood made public Board discussions with individuals who could never be privy to the Board's deliberations without Board approval. In doing so, she took private 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." The Commission concluded that what Smallwood discussed in her telephone call was greater in detail than simply gauging the candidates' interest and that she disclosed confidential matters that were discussed in Executive Session in violation of N.J.S.A. 18A:12-24.1(g).

The Commission finds that sharing the deliberations of a closed meeting with any third party, who would not have been permitted to attend the meeting, is tantamount to a breach of trust and to the promise and expectation of confidentiality. Accordingly, the Commission imposed a penalty of reprimand.

-Lesinski v Smallwood, Docket Nos. C14-14 (Sch. Ethics Comm'n October 29, 2014)

Code of Ethics, continued

- h. I will vote to appoint the best qualified personnel available after consideration of the recommendation of the school leader.



Code of Ethics, continued

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

SEC Decisions Interpreting N.J.S.A. 18A:12-24.1 (i)

Susan Dunbar v Camden Board of Education

The Board President posted a comment on his Facebook page: “*Now if we could only do something about our local terrorists that destroy dreams and burn futures*” accompanied by a link to the school district website displaying a photograph of the superintendent.

The Commission determined that “while the Board member had the right to express disagreement with the board and the administration, the chosen method of doing so was inappropriate and an intentionally confrontational act...[T]he statement might reasonably be considered as undermining, opposing, compromising or harming the superintendent in the proper performance of her duties.”

In Agreement with the SEC the Commissioner held that “comparing superintendent to a terrorist goes beyond the expression of differences or good faith criticism of performance, and that such a public slur by a board member was likely to undermine the superintendent’s effectiveness.”

-Dunbar Bey v. Brown, Camden Bd. of Educ., Docket No. C25-11 (School Ethics Comm’n December 20, 2011); Comm. Educ. Agency Dkt. No. 365-12/11 (3/20/12)

Refer and Defer to the Administration

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

Practical Tips for Board Members

(cont'd)

- Make decisions for the educational welfare of all children. Don't base your decisions on what is best for your own child only or based on the agenda of others.

Practical Tips for Board Members (cont'd)

- Confine your actions to policymaking, planning and appraisal.
- Stay away from the administration, organization or implementation of the policies.
- Your job as a board member is to see that schools are well run, not to run the schools.

Practical Tips for Board Members (cont'd)...

- Only the full board has the right to make decisions. One board member alone cannot make decisions or take actions.
- The board should keep the community informed on the progress and needs of the district, BUT confidential matters need to stay confidential and cannot be discussed with anyone but the board.

Any Questions?



Thank you!