

Board Member Ethics Presentation

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The New Jersey School Ethics Act

N.J.S.A. 18A:12-21 et seq.

The Legislature find and declares:

- a. In our representative form of government it is essential that the conduct of members of local boards of education and local school administrators hold the respect and confidence of the people. These board members and administrators must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.
- b. To ensure and preserve public confidence, school board members and local school administrators should have the benefit of specific standards to guide their conduct and of some disciplinary mechanism to ensure the uniform maintenance of those standards among them.

N.J.S.A. 18A:12-22

Definitions

N.J.S.A. 18A:12-23

Who the Act applies to:

- "**Administrator**" means any officer, other than a board member, or employee of a local school district who (i) holds a position which requires a certificate that authorizes the holder to serve as school administrator, principal, or school business administrator; or (ii) 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 (iii) 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;
- "**Board member**" means any person holding membership, whether by election or appointment, on any board of education other than the State Board of Education;
- "**School official**" means a **board member**, an employee or officer of the New Jersey School Boards Association, but not including any member of the secretarial, clerical or maintenance staff of the association, **or an administrator**

Definitions

N.J.S.A. 18A:12-23

Familial relationships subject to the Act:

"Member of immediate family" means the spouse or dependent child of a school official residing in the same household;

"Relative" means the spouse, natural or adopted child, parent, or sibling of a school official;

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

Conflict of Interest

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

The following conflict of interest provisions apply to "school officials" (which includes board members and administrators).

- 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;
- 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;

Conflict of Interest

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

- c. No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family;

- d. No school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties;

Conflict of Interest

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

- e. No school official, or member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the school official has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the school official in the discharge of his official duties;
- f. No school official shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated;

Conflict of Interest

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

- g. No school official or business organization in which he has an interest shall represent any person or party other than the school board or school district in connection with any cause, proceeding, application or other matter pending before the school district in which he serves or in any proceeding involving the school district in which he serves or, for officers or employees of the New Jersey School Boards Association, any school district. This provision shall not be deemed to prohibit representation within the context of official labor union or similar representational responsibilities;
- h. No school official shall be deemed in conflict with these provisions if, by reason of his participation in any matter required to be voted upon, no material or monetary gain accrues to him as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of that business, profession, occupation or group;

Conflict of Interest

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

- i. No elected member shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the member or a member of his immediate family, whether directly or indirectly, in return therefor;

- j. Nothing shall prohibit any school official, or members of his immediate family, from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own interests;

Conflict of Interest

In-District Relationships

For school officials with a relative or others working in District:

- Prohibited from participating in all aspects of the search, selection, and vote for new superintendent. This includes voting to advertise for the superintendent position, selection of a search firm, search criteria, job description, evaluation and contract discussion.
- Prohibition extends to all employment matters (including evaluation) related to superintendent and all supervisors in the chain of command between the employee and superintendent.

Conflict of Interest

In-District Relationships

For school officials with a relative or others working in District:

- Prohibited from participating on negotiations team and cannot vote on the contract. This applies when the employee is in the bargaining unit under negotiation, supervised by the bargaining unit under negotiation, or not in a bargaining unit but the terms and conditions are linked to a bargaining unit.

Conflict of Interest

Advisory Opinion A24-17

RELATIONSHIP TO BOARD MEMBER	CURRENT MEMBER OF THE LOCAL UNION	CURRENT MEMBER OF ANY STATEWIDE PUBLIC TEACHERS' UNION	PARTICIPATE IN NEGOTIATIONS Yes or No	VOTE TO RATIFY THE CONTRACT Yes or No	PARTICIPATE IN ISSUES RELATED TO THE SUPER. (Search, Hire, Contract, and Evaluation) Yes or No
SELF		X	No	Yes*	Yes*
SPOUSE	X		No	No	No
SPOUSE		X	No	Yes*	Yes*
DEPENDENT CHILD	X		No	No	No
DEPENDENT CHILD		X	No	Yes*	Yes*
CHILD (NOT DEPENDENT)	X		No	No	No
CHILD (NOT DEPENDENT)		X	Yes*	Yes*	Yes*
RELATIVE	X		No	No	No
RELATIVE		X	Yes*	Yes*	Yes*
* Absent another conflict					

Code of Ethics for School Board Members

N.J.S.A. 18A:12-24.1(a)-(j)

A 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.
- 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.
- 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.
- 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.
- 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.

Code of Ethics for School Board Members

N.J.S.A. 18A:12-24.1 cont.

- 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.
- 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.
- h. I will vote to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer.
- i. I will support and protect school personnel in proper performance of their duties.
- j. I will refer all complaints to the chief administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

Code of Ethics for School Board Members

School Ethics Decision C09-19

Superintendent v. Board Member

- Parent/Teacher filed complaint with the Board about the Superintendent's handling of an emergency.
- Board originally expressed support for the Superintendent.
- After back-and-forth e-mails between complainant and Board, a Board member inadvertently "replied all" to the e-mail chain which included the full Board and the complainant.
- The e-mails expressed concerns and doubt about the Superintendent's handling of the situation and the Board's response to the complaint, including whether the Superintendent's actions will subject the Board to legal liability.

Code of Ethics for School Board Members

School Ethics Decision C09-19 *cont.*

The School Ethics Commission determined:

- By subsequently offering his opinion on the substance of *both* communications submitted by [complainant], including how the Board was handling or should handle the issue, and the potential legal ramifications for failing to do so, Respondent unquestionably disclosed confidential information.
- The opinions of individual Board members are part and parcel of the Board's overall deliberative process, and the fact that they did not necessarily occur in Executive Session does not mean they are not confidential.
- The disclosure of the confidential information at issue here, in and of itself, needlessly injured [superintendent]. As the District Superintendent, any and all deliberative personnel discussions about the manner in which he handled or responded to a specific complaint, especially from a parent (who is also a staff member), with anyone other than the Board unquestionably caused him injury.

Code of Ethics for School Board Members

School Ethics Decision C09-19 *cont.*

Penalty

- Although the Commission accepts, as true, that Respondent inadvertently copied [complainant] on his email, this inadvertency is of no consequence. All members of a board of education, including Respondent, must always be mindful of who is receiving their emails. The inclusion of any member of the public on the same email as the Board (as an entity) has the potential to violate, among other things, the Open Public Meetings Act, to waive confidentiality of the Board's business, and, as in this case, to result in the disclosure of confidential information.
- SEC issued a formal reprimand because the complainant did not share the information with others, or otherwise use it as a basis to initiate a lawsuit against the District

Practical Tips

- 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.
- 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.
- 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.

Questions????