


SCHOOL BOARD ETHICS

September 25, 2008
Pennsauken Board of
Education
Business Meeting



Board Ethics Training

- Pursuant to *N.J.A.C. 6:3-1.3* and *N.J.A.C. 6A:30, et. seq.*, the Board must complete ethics training requirements. This presentation satisfies those requirements.



Disclaimer

- THIS PRESENTATION **DOES NOT** REPLACE THE INDIVIDUAL ETHICS TRAINING REQUIRED FOR ALL NEW DISTRICT AND CHARTER SCHOOL BOARD MEMBERS/TRUSTEES.



Each Board shall . . .

- Discuss the School Ethics Act and the Code of Ethics for School Board Members, at a regularly scheduled public meeting annually;
- Adopt policies and procedures regarding the training of district board members/ charter school trustees members in understanding the Code of Ethics; and
- Provide documentation that each member of the district board of education or board of trustees has received and reviewed the Code of Ethics.



Purpose of the School Ethics Act

- Ensure and preserve public confidence because it is essential that the conduct of local boards maintain and hold public confidence;
- Provide specific standards to guide the conduct of the board; and
- Implement a disciplinary mechanism to ensure maintenance of the standards.



Code of Ethics N.J.S.A. 18A:12-24.1

Act Contains 10 Items Members Must Follow:

1. 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.
 - C11-06 A superintendent is not a “board member” subject to the Code of Ethics for School Board Members, although the Superintendent is an ex officio member of the Board.



Code of Ethics N.J.S.A. 18A:12-24.1

2. 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.

- C13-03 Board member violated the School Ethics Act when he had an interest in a preschool that contracted with the board and when he voted to approve payment to the preschool.



Code of Ethics N.J.S.A. 18A:12-24.1

3. 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.
 - C03/C04/C06/C07/C12-03 Charter School trustee violated this provision when he acted to terminate the chief administrative officer without giving notice to all of the board members that such action was to take place.
 - C06-05 & C12-05 Charter school board president was found to have violated N.J.S.A. 18A:12-24.1(b) when he planned and participated in a closed executive meeting of the board without providing adequate notice and when he, shortly before the meeting, sent an e-mail to all board members with a copy to the Board secretary effectively dismissing the board secretary. He was also found in violation of N.J.S.A. 18A:12-24(b) and (c) and N.J.S.A. 18A:12-24.1(a), (c), (d), (e) and (f) of the Code of Ethics for, among other things, signing checks that the board did not authorize.



Code of Ethics N.J.S.A. 18A:12-24.1

4. 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.
 - C36-02 Board member violated N.J.S.A. 18A:12-24.1(a), (c), (d), (e), (f), (g), (h), (i) and (j) by ignoring the recommendation of the superintendent and allowing a business administrator to be hired without any recommendation, giving orders to a board employee to perform tasks for her, having *Rice* notices sent to employees proposing their termination without consulting the superintendent, hiring people and creating positions without recommendation from the superintendent.
 - C25-05 Board member found in violation of N.J.S.A. 18A:12-24.1(d) when he asked for copies of SAT reports directly from the guidance secretary, inspected lockers in the boys' locker room and instructed staff on the supervision of students.



Code of Ethics N.J.S.A. 18A:12-24.1

5. 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.

- C17-02 Board member violated N.J.S.A. 18A:12-24.1(e) and (g) by revealing employee documents to complainant that were provided to the board as part of the board's dispute with an employee.



Code of Ethics N.J.S.A. 18A:12-24.1

6. 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.

- C44-02 Board member violated the Act when she, on three separate occasions, voted on bill lists that contained payments to the printing firm that was owned by her husband and for which she was an employee.



Code of Ethics N.J.S.A. 18A:12-24.1

7. 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.

- C36-01 Violation of N.J.S.A. 18A:12-24.1(e) and (g) found where board member sought and revealed confidential information about a board member's child in closed session. Seeking the information constituted taking private action that could compromise the board in violation of N.J.S.A. 18A:12-24.1(e) and revealing it constituted failing to hold confidential all matters pertaining to the schools that would needlessly injure individuals in violation of N.J.S.A. 18A:12-24.1(g).
- A02-06 Board member would not violate N.J.S.A. 18A:12-24.1(e) or (g) if he were to send a letter to the editor expressing his opinion about the budget, as long as he does not hold himself out as a representative of the board, indicates that the opinion is his and not that of the board, and the information therein is accurate and not confidential.



Code of Ethics N.J.S.A. 18A:12-24.1

8. I will vote to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer.



Code of Ethics N.J.S.A. 18A:12-24.1

9. I will support and protect school personnel in proper performance of their duties.

- C30-03 Board member found to have violated N.J.S.A. 18A:12-24.1(i) when he called an employee at home and became angry when she refused to provide him with the reports that he had requested.
- C08-05 Charter school trustee was found in violation of the Code of Ethics for making a derogatory statement regarding a teacher's lesson on the Holocaust at a public meeting of the school board. Commission found that she failed to support and protect school personnel in proper performance of their duties in violation of N.J.S.A. 18A:12-24.1(i).



Code of Ethics N.J.S.A. 18A:12-24.1

10. 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

- C29-03 The Commission found that respondents violated subsection N.J.S.A. 18A:12-24.1(j) by entering schools and taking photographs of the kitchens to support their opposition to the food service contractor whose contract the teachers' union opposed. They then appeared on a television program complaining of the company's management of the kitchens before taking their complaints to the superintendent.
- C25-05 the Commission found that a board member violated N.J.S.A. 18A:12-24.1(d) and (j) of the Code of Ethics for School Board Members in the Act when he went directly to the guidance secretary and asked for a copy of the 2004 and 2005 SAT reports, went into the boys locker room to inspect the lockers and when he took a parental complaint directly to the Principal rather than to the Superintendent.



School Ethics Act N.J.S.A. 18A:12-24

CONFLICTS

Board members are prohibited from engaging in certain activities as they may create a conflict of interest, thereby impairing public confidence.

- 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.
 - a. Owner and operator of Township's only newspaper in which school board published notices was disqualified from holding position on the board. Brick Twp. Bd. of Ed. v. Mueller, 95 N.J.A.R. 2d EDU 22.
- 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.
 - a. C18-01 Board member was found to have used her official position to secure unwarranted privileges, advantages for herself and others in violation of N.J.S.A. 18A:12-24(b), when she used her position as a board member to acquire mailing labels containing student information that were used to send mailings for a political campaign. Commission recommended censure and the Commissioner accepted the recommendation.



School Ethics Act N.J.S.A. 18A:12-24

- 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.
- a. A19-05 Board member whose sister is a teacher in another district and belongs to the same statewide union with which his district will be negotiating would not violate the Act by serving on the negotiations team.
 - b. A30-05 Board members would violate N.J.S.A. 18A:12-24(c) if they were to participate in evaluations, personnel actions and compensation for the principals who supervise their spouses, the Director of Elementary Education and the Superintendent. The Commission advised the board members to recuse themselves and not to participate in any discussions regarding the above matters.



School Ethics Act N.J.S.A. 18A:12-24

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.

- a. Board member violated the Act when he participated in the discussion and voted on the resolution to continue the appointment of his employer, a bank, as the depository of monies for the board of education. See Carpenter/Pennsville, 2002 S.L.D. January 31.
- b. A16-04 Board member would not violate N.J.S.A. 18A:12-24(a) or (d) of the Act if she served as a co-facilitator of a Special Education Parent Discussion Group, but should remain mindful of her duty to maintain the confidentiality of any information that she acquires by reason of her office pursuant to N.J.S.A. 18A:12-24.1(g).



School Ethics Act N.J.S.A. 18A:12-24

- 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...
 - a. Board member violated the Act when she solicited a political donation from a vendor's employee. See Ferraro/Keansburg, 2002 S.L.D. Sept. 23.



School Ethics Act N.J.S.A. 18A:12-24

- 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.
 - a. C10-98 Board member violated N.J.S.A. 18A:12-24(f) when he used his position to ask the Business Administrator to try to obtain an unsecured loan from the bank that the board uses as its depository. Commission recommended censure.
 - b. C47-04 Commissioner found no probable cause where board member recommended and voted on district's broker of record when he had a "long-time friendship" with the managing partner and his son was hired by the broker of record after a vote. He abstained from voting after his son was hired.



School Ethics Act N.J.S.A. 18A:12-24

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.... This provision shall not be deemed to prohibit representation within the context of official labor union or similar representational responsibilities.

- a. A07-00 Board member may serve as President of local PTA, but must make sure that she does not represent the PTA before the Board on any manner.
- b. C10-02 Board member violated N.J.S.A. 18A:12-24(g) by representing the Borough Council in a matter pending before the Board. He also violated N.J.S.A. 18A:12-24(c) when he participated in discussions on the budget as a board member while serving as "borough consultant," but he functioned as the borough's financial officer. Commissioner concurred with Commission's recommended penalty of censure in light of the board member's abrupt resignation.



School Ethics Act N.J.S.A. 18A:12-24

- 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.
 - a. A01-98 Board members whose children attended the district high school may discuss and vote on a proposal to give greater weight to more academically challenging courses pursuant to N.J.S.A. 18:12-24(h), but may not vote on whether to make proposal retroactive when retroactivity would give their children who are juniors a greater benefit.
 - b. C11-00 Where board member negotiated and presented a lease renewal of a charter school to the board when his children are students of the charter school, no material gain accrued to him as a member of the group of parents to any greater extent than any gain could accrue to any other member of that group.



School Ethics Act N.J.S.A. 18A:12-24

- 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 therefore.
- 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.
 - a. A30-04 Board member would not violate the Act by appealing a Section 504 determination regarding her own child and pursuing tuition and legal fees because N.J.S.A. 18A:12-24(j) provides an exception. However, she would violate N.J.S.A. 18A:12-24(c) if she were to participate in discussions and vote on matter involving the Section 504 determination.



Ethics – Common Areas of Concern

- Financial Involvement—Recuse (excuse) yourself when your immediate family's financial involvement might reasonably be expected to impair your objectivity. Do not discuss or vote on that involvement.
 - Immediate family is defined as spouse or dependent child residing in same household as the board member.
 - EXAMPLE: Board members cannot participate in negotiations when relatives are members of the bargaining unit.



Ethics – Common Areas of Concern

- Personal Involvement—Recuse yourself when you or members of your immediate family have a personal involvement that creates some benefit to you or to an immediate family member
 - Board member violated the School Ethics Act when he was present for 2 executive session meetings where his brother’s appointment to a teaching staff member position was discussed. Pettinelli/Alpha, 2004 S.L.D. Sept. 8.



Ethics – Common Areas of Concern

- Personnel Appointments
 - Relatives- NO participation, recuse yourself.
 - Related to School Official by Marriage (i.e. in-laws)—get advisory opinion from the Commission.
 - Professional Services (lawyer, accountant, etc.)—NO participation, if currently receiving services from that professional; otherwise seek advisory opinion.
 - EXAMPLE: Board members violated the Act when they took action to bring about the appointment of their personal attorney as solicitor. Davis, Jackson/Camden, 2001 S.L.D. July 27.



Ethics – Common Areas of Concern

- Personnel Appointments (continued)
 - Political Involvement —
 - If job candidate provided services (example: campaign manager or treasurer) to your campaign, must recuse yourself.
 - If job candidate was merely contributor (and contribution was not given in exchange for appointment), you may participate in appointment.



Collective Negotiations – In District

No Participation	Seek Advisory Opinion
<ul style="list-style-type: none">■ Immediate Family■ Emancipated Child■ Siblings■ Parents	<ul style="list-style-type: none">■ Son/daughter-in-law■ Sister/brother-in-law■ Mother/father-in-law



Collective Negotiations – Out of District

Immediate Family Member- Same Statewide Union affiliation

- Once tentative agreement has been signed, then you may participate and vote on the contract.

Emancipated Children - Same Statewide Union affiliation

- May fully participate in negotiation, but must consider other possible conflicts.



Collective Negotiations – Endorsements

- Board members who have been endorsed by the bargaining unit in the year in which negotiations are beginning or ongoing, may not participate in negotiations or vote on the contract.
- Board members endorsed in years prior to start of collective bargaining, may be able to participate in negotiations.



Ethics – Advisory Opinions

- Issued by the School Ethics Commission, on request.
- Used for **future or proposed** conduct.
- Based on the specific facts of your situation.
- Issued to the individual; Some opinions are made public when it concerns an issue of importance to all. If made public, individual names are redacted.
- Does not penalize individual because concerns **proposed** conduct, not action already taken.



Doctrine of Necessity

- Where so many board members have ethical conflicts that the board cannot function, then a board may use the Doctrine of Necessity which will allow the board to function as if no member had a conflict.
 - Board must pass a resolution invoking doctrine, reasons for it, and the nature of the conflicts.
 - Doctrine allows voting and, in limited circumstances, participation in negotiations.
 - Board must consult with attorney before using Doctrine of Necessity.



Indemnification – N.J.S.A. 18A:12-20

- Boards must cover costs related to defending a board member for an act or omission arising out of his/her official duties as a member of the board.
 - Covers civil and administrative proceedings, win or lose. (example: ethics complaints)
 - Covers criminal or quasi-criminal actions where the result is favorable to the board member.



Ethics Summary

- How do ethics affect board members?
 - Questions to think about:
 - Do you have any conflicts that would prevent you from voting or participating in a matter?
 - Have you sought an advisory opinion from the School Ethics Commission?
 - Have you consulted with the board attorney?
 - Are there any matters where the board will have to use the Doctrine of Necessity?
 - PLAN AHEAD!



Where to Get Ethics Help

- **Your Board Attorney**
- **N.J. School Ethics Commission**
 - (609) 984-6941 or
www.nj.gov/njded/ethics/commission.htm
(for information on advisory opinions or complaints)



Where to Get Ethics Help

- **N.J. School Boards Association**

- Legal Department--(for information on past rulings and advisory opinions) **1-888-886-5722 x5254**
- Policy Department--(for information on ethics policies)
1-888-886-5722 x5222
- Field Services Department--(for direct assistance)
1-888-886-5722 x5255

