

# **DIRECTIONS FOR FILING A COMPLAINT BEFORE THE SCHOOL ETHICS COMMISSION**

## **Filing a Complaint pursuant to N.J.A.C. 6A:28-6.**

Any *person* may file a complaint with the School Ethics Commission (“Commission”) alleging that a school official has violated the School Ethics Act (“Act”). The Act defines “school officials” as board members, charter school trustees, administrators and employees and officers of the New Jersey School Boards Association. A complaint form must be completed.

A complaint must include a citation to that portion of the Act which the complainant believes was violated. Please note that N.J.S.A. 18A:12-22 is the provision of the Act which sets forth the Legislature’s findings and declarations and does not contain standards that are enforceable by the Commission; it should *not* be cited as a potential violation.

A complainant must file an original and two copies of a complaint, *together with a copy for each respondent named in the complaint*. Subject to the exceptions set forth at N.J.A.C. 6A:28-6.6(g), the Commission shall hold all information confidential regarding any pending matter until it first takes action at a public meeting to determine probable cause, or violation, or until the matter is settled, withdrawn or dismissed. Where the Commission deems there has been a violation of the Act, it may recommend a penalty to the Commissioner of Education which may include reprimand, censure, suspension or removal.

## **Types of Complaints**

- (1) Complaints solely alleging prohibited acts as set forth at N.J.S.A. 18A:12-24. Review of this complaint is governed by N.J.A.C. 6A:28-10.7. After receipt of the response, the Commission may, at its discretion, convene a conference to obtain additional information. The Commission will determine whether probable cause exists to credit any allegation(s) of prohibited acts. Where the Commission finds that probable cause exists to credit any allegations of prohibited acts, the Commission will prosecute the complaint. The matter will be transmitted to the Office of Administrative Law (OAL) for a hearing if the material facts are not admitted, or deemed admitted. However, where the material facts are admitted or deemed admitted, the respondent shall have 20 days to submit a statement setting forth the reasons s/he should not be found in violation of the Act and the Commission may make a determination of violation on a summary basis or “on the papers” without a hearing.
- (2) Complaints solely alleging violations of the Code of Ethics for School Board Members as set forth at N.J.S.A. 18A:12-24.1(a) through (j). Review of this complaint is governed by N.J.A.C. 6A:28-10.8. The complaint must name only school board members or charter school trustees as respondents. The complainant(s) shall carry the burden to factually prove a violation and prosecute the complaint either before the Commission or at the OAL.
- (3) Complaints alleging both prohibited acts and violations of the Code of Ethics for School Board Members. Review of this complaint is governed by N.J.A.C. 6A:28-10.9. After receipt of the response, the Commission, in its discretion, may convene a conference to obtain additional information. At a meeting, the Commission will determine whether probable cause exists to credit any allegation(s) of prohibited acts.
  - Where the Commission finds that probable cause exists to credit any of the allegations of prohibited acts, the Commission will prosecute the complaint. The matter will be transmitted to the OAL for hearing if the material facts are not admitted, or deemed admitted. However, where the material facts are admitted or deemed admitted, the respondent shall have 20 days to submit a statement setting forth the reasons s/he should not be found in violation of the Act and the Commission may make a determination of violation on a summary basis without a hearing.

- Where the Commission finds no probable cause to credit any of the allegations of prohibited acts, the complainant(s) carry the burden to factually prove the violation(s) arising under the Code of Ethics either before the Commission or at the OAL.

**Sanctions for Filing a Frivolous Complaint**

The Commission may find, by majority vote, that a complaint was frivolous and may impose sanctions pursuant to N.J.S.A. 18A:12-29(e). A “frivolous complaint” means a complaint determined by the Commission to be either (1) commenced, used or continued in bad faith, solely for the purpose of harassment, delay or malicious injury; or (2) one which the complainant knew, or should have known, was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law. The Commission may fine a complainant up to \$500.

**Complaint Checklist**

Before submitting a complaint to the Commission, please use the following checklist to ensure that your filing is complete:

**The complaint includes:**

- \_\_\_\_\_ The full name, home address and phone number of each complainant;
- \_\_\_\_\_ The full name and **home address** of each respondent;
- \_\_\_\_\_ A brief statement, in individually numbered paragraphs, setting forth the specific allegation(s) and the facts supporting them which have given rise to the alleged violation(s) of the Act;
- \_\_\_\_\_ The date(s) of the occurrence(s) of each specific allegation;\*
- \_\_\_\_\_ The section(s) of the Act claimed to be violated for each specific allegation;
- \_\_\_\_\_ A statement giving all pertinent facts as to whether any other action has been instituted in the matter which is the subject of the complaint or is pending in any court of law or administrative agency of this State;
- \_\_\_\_\_ A notarized signature and certification under oath **for each complainant;** and
- \_\_\_\_\_ Where the complaint alleges a violation of the Code of Ethics for School Board Members, each respondent is either a Board member or Charter School Trustee.

**Where to File:**

A complaint and all necessary copies may be mailed to:

**School Ethics Commission  
c/o Department of Education  
P.O. Box 500  
Trenton, NJ 08625**

Questions may be directed to : 609.984-6941.

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\* Complaints shall be filed within **180** days of notice of the events which form the basis of the alleged violation(s). A complainant shall be deemed to be notified of events which form the basis of the alleged violation(s) when he or she knew of such events or when such events were made public so that one using reasonable diligence would know or should have known.