



STATE OF NEW JERSEY DEPARTMENT OF EDUCATION

Directions for Filing a Complaint with the School Ethics Commission

Filing a Complaint pursuant to N.J.A.C. 6A:28-6 et seq.

Any *person* may file a complaint with the School Ethics Commission (Commission) alleging that a *school official* has violated the School Ethics Act (Act). A school official includes any board member, a member of a board of trustees, an administrator, or an employee or officer of the New Jersey School Boards Association, but not including any member of the secretarial, clerical or maintenance staff.

A complaint must include a citation to that portion of the Act which the complainant(s) believes was violated by the respondent(s). ***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; therefore, it should *not* be cited as a potential ethics violation.

The complainant(s) must file a complaint with the Commission either by mail, or by email. If filed by mail, the complainant(s) must include an original hardcopy with related exhibits, along with one copy of such complaint and related exhibits, and an additional copy of the complaint and related exhibits for each named respondent(s). If filed by email, the complainant(s) must still file a hardcopy of the complaint and related exhibits for each named respondent(s).

Complaints should be mailed to the Commission, c/o New Jersey Department of Education, P.O. Box 500, Trenton, New Jersey 08625, and electronic submissions should be sent as an attachment to school.ethics@doe.nj.gov.

Following receipt of a complaint, the Commission's staff will review the filing to determine whether it complies with the requirements set forth in *N.J.A.C. 6A:28-6 et seq.* If the complaint is compliant with the regulations, the Commission will serve the respondent(s) with the complaint. If it does not meet the requirements, the Commission will direct the complainant(s) to cure any noted deficiencies.

Types of Complaints

- (1) A complaint alleging violations of [N.J.S.A. 18A:12-24 \(Prohibited acts\)](#) can be filed against any school official.
- (2) A complaint alleging violations of [N.J.S.A. 18A:12-24.1 \(Code of Ethics for School Board Members\)](#) can only be filed against a board member or a charter school trustee. Violations of *N.J.S.A. 18A:12-24.1* **cannot** be filed against an administrator. In order to establish a violation of *N.J.S.A. 18A:12-24.1*, the complainant(s) must provide the factual evidence required by *N.J.A.C. 6A:28-6.4*.
- (3) A complaint alleging violations of *N.J.S.A. 18A:12-24 (Prohibited acts)* and *N.J.S.A. 18A:12-24.1 (Code of Ethics for School Board Members)* can only be filed against a board member or a member of the board of trustees, and **cannot** be filed against an administrator.

Complaint Checklist

Before submitting a complaint to the Commission, please use the following checklist to ensure that your filing is complete and complies with the requirements set forth in *N.J.A.C. 6A:28-6 et seq.*:

- ✓ The complaint must include a person as the complainant(s), and cannot be submitted on behalf of an organization or entity. *N.J.A.C. 6A:28-6.1(a)*.
- ✓ If filed with the Commission by mail, the complaint must include an original hardcopy with related exhibits, along with one copy of such complaint and related exhibits, and an additional copy of the complaint and related exhibits for each named respondent(s). *N.J.A.C. 6A:28-6.2(a)(1)*.
- ✓ If filed with the Commission by email, the complaint must include a copy of the complaint and related exhibits for each named respondent(s). *N.J.A.C. 6A:28-6.2(a)(2)*.
- ✓ The complaint must include the full name, home address, phone number, and email address for each complainant(s). *N.J.A.C. 6A:28-6.3(b)(1)*.
- ✓ The complaint must include the full name, home address, phone number, and email address for each respondent(s). The complainant(s) may use the respondent(s)'s official email address. *N.J.A.C. 6A:28-6.3(b)(2)*.
- ✓ If the complainant(s) cannot access the phone number and/or email address for the respondent(s), the complainant(s) must indicate that the phone number and/or email address for the respondent(s) is unknown. *N.J.A.C. 6A:28-6.3(b)(2)*.

- ✓ The complaint must include individually numbered paragraphs setting forth each alleged violation of the Act, with each paragraph to include, without limitation:
 - 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; and
 - The specific facts or arguments that support the contention that the Act was violated.

N.J.A.C. 6A:28-6.3(b)(3).

- ✓ The complaint must include a signature and certification by each complainant(s).
N.J.A.C. 6A:28-6.3(b)(4).
- ✓ The complaint must include evidence in support of the allegations. *N.J.A.C. 6A:28-6.3(b)(5).*
- ✓ The complaint must include a statement 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. *N.J.A.C. 6A:28-6.3(d).*
- ✓ The complaint must be filed within **180** days of notice of the events which form the basis of the alleged violation(s). A complainant(s) 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.

Processing of Complaints

After the Commission serves the respondent(s) with a complaint, the respondent(s) shall have twenty (20) days from receipt to file a written statement and, if desired, to allege that the complaint is frivolous. Additional information on how a respondent(s) can file a response to a complaint can be found on the [Commission's website](#).

After the respondent(s) files a written statement, no other filings shall be accepted, unless the respondent included an allegation of frivolous filing within the written statement. Then the complainant(s) will have 20 days to file a response to the allegation of frivolous filing, only. Thereafter, the Commission shall decide, by majority vote, whether ***probable cause*** exists for the allegations in the complaint. ***Probable cause*** shall be found when the facts and circumstances presented in the complaint and written statement would lead a reasonable person to believe that the Act has been violated.

If the Commission does not find probable cause, the complaint will be dismissed.

If the Commission finds probable cause for the allegations in the complaint, the matter can:

1. Be retained by the Commission for a hearing.
 - a. The Commission will need to secure the parties' written consent in only those matters where it finds probable cause to credit a violation of *N.J.S.A. 18A:12-24* (Prohibited acts).
 - b. The Commission will **not** need to secure the parties' written consent in matters where it finds probable cause to credit a violation of *N.J.S.A. 18A:12-24.1* (Code of Ethics for School Board Members).
2. Be decided on a summary basis **if** the material facts are not in dispute; or
3. Be transmitted to the Office of Administrative Law **if** the material facts are in dispute and not admitted.
 - a. If a matter is transmitted to the OAL, and the Commission found probable cause to credit at least one violation of *N.J.S.A. 18A:12-24* (Prohibited acts), the complainant(s) shall no longer be a party, and the attorney for the Commission shall litigate the allegations in the complaint for which the Commission found probable cause to credit.
 - b. If a matter is transmitted to the OAL, and the Commission did not find probable cause to credit at least one violation of *N.J.S.A. 18A:12-24* (Prohibited acts), but did find probable cause to credit violations of *N.J.S.A. 18A:12-24.1* only (Code of Ethics for School Board Members), the complainant, or an attorney of the complainant's choosing, shall litigate the allegations in the complaint for which the Commission found probable cause to credit, in accordance with the standards set forth in *N.J.A.C. 6A:28-6.4*.

Violations of the Act

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 of a board member, a member of a board of trustees, or an administrator. In addition, if a school official was on notice that an activity would violate the Act, or in instances where a school official was previously sanctioned pursuant to this chapter, the Commission may recommend an enhanced penalty.

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” is defined as (1) one that was commenced, used or continued in bad faith, solely for the purpose of harassment, delay or malicious injury, or (2) one which the complainant(s) 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.