



STATE OF NEW JERSEY DEPARTMENT OF EDUCATION

Directions for Responding to a Complaint Filed with the School Ethics Commission

Filing a Written Statement Pursuant to N.J.A.C. 6A:28-7

After the School Ethics Commission (Commission) serves the respondent(s) with a complaint, the respondent(s) shall have twenty (20) days from receipt to file a written statement. If additional time is needed, the respondent(s) may, prior to the expiration of the time for filing a written statement, request an extension of time. When submitting a request for an extension, the respondent must first request an extension from the complainant and include how much time is needed, then the respondent(s) shall request an extension from the Commission and include the position of the complainant(s) on the request.

Pursuant to *N.J.A.C. 6A:28-7.2*, a written statement shall:

1. Fully and completely advise the parties and the Commission as to the nature of the respondent's defenses for each allegation, including any grounds upon which dismissal should be granted.
2. Admit or deny each allegation set forth in the complaint with specificity. Denials shall fairly meet the substance of the allegations being denied. A respondent who intends in good faith to deny only part of an allegation shall specify which parts are true, and deny only the remainder.
3. Be signed by the respondent(s), and the respondent(s) shall certify as to the accuracy of the written statement.

In the written statement, the respondent(s) may allege that a complaint is frivolous pursuant to the standard set forth in *N.J.S.A. 18A:12-29(e)*. If the respondent(s) asserts that a complaint is frivolous, the complainant(s) shall then have twenty (20) days from receipt of the frivolous allegation to file a response to the frivolous allegation **only**. *N.J.A.C. 6A:28-7.2(b)*.

The respondent(s) shall file the written statement with the Commission by **either**:

1. Filing an original hardcopy of the written statement, along with one copy, to:

New Jersey Department of Education
School Ethics Commission
100 Riverview Plaza
Trenton, New Jersey 08625

2. Or, filing the written statement electronically (school.ethics@doe.nj.gov).

The respondent(s) shall serve a copy of the written statement on the complainant(s) in the same manner that the Commission was served, and shall submit proof of service conforming to the requirements set forth in *N.J.A.C. 6A:28-1.7*.

Proof of Service pursuant to N.J.A.C. 6A:28-1.7

Proof of service shall be in the form of one of the following:

1. An acknowledgement of service signed by the attorney or the attorney's designee for each party or signed and acknowledged by the party or agent thereof, indicating the address at which each party was served;
2. An affidavit of the person making service, sworn or affirmed to be true indicating the address at which each party was served;
3. A certification indicating the address at which each party was served and meeting the requirements of New Jersey Court Rules at R. 1:4-4(b);
4. A copy of the receipt for certified mailing or delivery by messenger. The return receipt card ("green card") is not required for proof of service of certified mailing; or
5. A copy of the email address at which a party was served, along with a copy of the "delivered" and/or "read" receipt.

Review by the Commission

After the respondent(s) files a written statement, no other filings shall be accepted, unless respondent included an allegation of frivolous filing within the written statement. Then the complainant(s) will have twenty (20) days to file a response to the allegation of frivolous filing, only (if asserted by the respondent(s)). 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 (OAL) *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*.

Any questions may be directed to school.ethics@doe.nj.gov.