

Perusing recent school ethics decisions, I found myself wondering....

I wondered about the questionable conduct of some school board members (Did he/she really do that?). I wondered about some seemingly meritless complaints (What was that all about?).

And I wondered at some surprising results reached by the School Ethics Commission.

The point is that board members need to be familiar with the strictures of the School Ethics Act and the Code of Ethics for School Board Members. Common sense may go a long way, but ethics charges sometimes seem to come out of the blue and the outcome is not always what one might expect. School administrators also need to be familiar with the Act and the Code of Ethics, so they can recognize violations when they occur, assist board members when they can, and know when to call an attorney.

Try the quiz that follows to see if you have the same reactions, and to learn of recent noteworthy school ethics cases, some with surprising results. Answers to quiz questions can be found on the next page with links to each cited decision and a quick reference of the pertinent statutory provisions.

QUIZ: ARE THESE ETHICS VIOLATIONS?

Which of these cases resulted in a finding of violation of the school Ethics Act or Code of Ethics for school board members?

1. Board member reports to administration that he has filed a criminal complaint against his estranged wife, a board employee, who soon thereafter is given a transfer and salary reduction.
___ Yes ___ No
2. Board member homeschools his children and makes every decision based on his desire to reduce spending in the schools.
___ Yes ___ No
3. Board member goes into middle school unannounced, takes pictures of open windows in classrooms and maxipads in board office bathroom, then speaks to reporters regarding his concerns about these items and gives his pictures to reporters.
___ Yes ___ No
4. Board member posts on nj.com a copy of an email sent to board members by the superintendent, informing them of an employee's hospitalization.
___ Yes ___ No

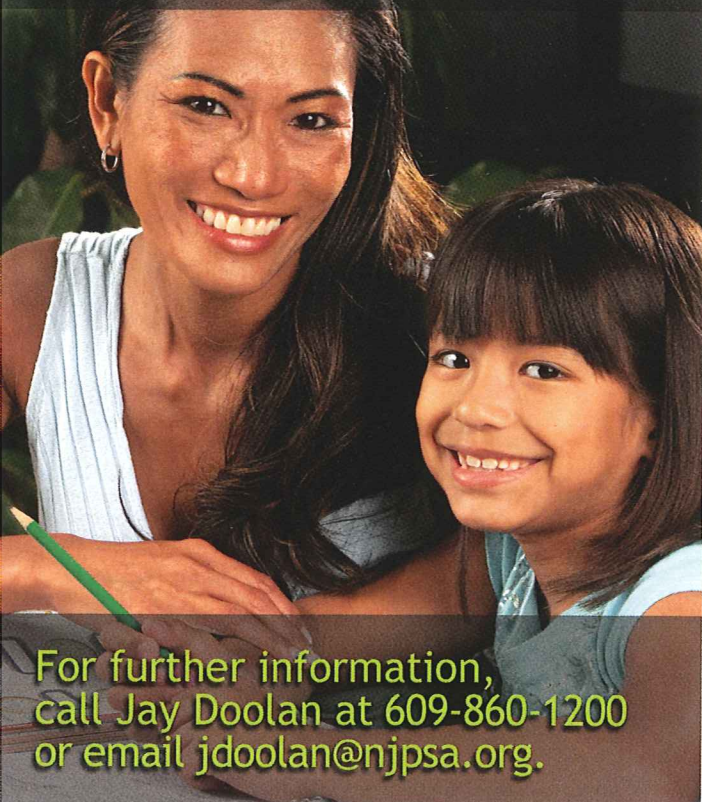


5. Board member makes a statement to the press during her reelection campaign, "I would advocate a cooperative approach rather than a confrontational one," regarding the board's request for an investigation of the feasibility of withdrawal from the regional district.
___ Yes ___ No
6. Board president sends a letter to the editor, signed as board president, which has been reviewed and approved by the board attorney but not reviewed and discussed by other board members.
___ Yes ___ No
7. Board member sends a letter to the editor with inaccurate information, identifying himself as a board member but with no indication that it is on behalf of the board and with no reference to board matters.
___ Yes ___ No
8. Board member whose spouse is employed in the district votes to approve the district budget.
___ Yes ___ No
9. Board member sends a letter to the superintendent complaining of the superintendent's treatment of his wife, a district employee.
___ Yes ___ No
10. Board member and his wife seek to have their child's grade changed, alleging that the change is a legally required accommodation, and assert (but later drop) a claim against the board for reimbursement of costs and attorneys' fees.
___ Yes ___ No
11. Board member refuses to cooperate with an investigation conducted by the district's affirmative action officer and makes offensive statements to her during the investigation.
___ Yes ___ No

12. Board member sends a "confidential memorandum" to board members stating, "I have a number of concerns about the way [the high school principal] is doing her job ..." and "I am not casting aspersions ..., I am just saying very loud and clear ... given all the problems we have had over recent years ... we ... as a board better be very careful who we grant administrative tenure to."
☐ Yes ☐ No
13. Board member sends a letter to the superintendent, with copies to county superintendent and president of the State Board, stating, "We as a board of education are quickly losing the trust and support of the community. The relationship between the whole board and the chief school administrator is critical. Your refusal to sit down, talk, and work out our differences is no longer tolerable.... I hope you will implement all the policies equally and fairly. There is a process to change them. There should be a penalty for those who refuse to follow them or enforce them."
☐ Yes ☐ No
14. Board member leaves the room to prevent the board from having a quorum to conduct business.
☐ Yes ☐ No
15. Board member assaults the superintendent in the parking lot after a board meeting.
☐ Yes ☐ No

ENVISION: Parent University™

Building Parent Involvement



For further information,
 call Jay Doolan at 609-860-1200
 or email jdoolan@njpsa.org.

School Ethics Violations Quiz Answer Key:

- No.** *Pineiro-Gonzalez v. Gonzalez*, C-02-07 (May 22, 2007), *aff'd App. Div. Docket No. A-5478-06T1 (unpublished June 23, 2008)*. Board member who informed administration that he had filed a complaint against his estranged wife alleging criminal mischief did not violate 18A:12-24b (no use of official position to secure unwarranted privileges).
- No.** *I/M/O Delbury*, C64-06 (October 30, 2007), *aff'd Comm'r #472-07SEC (December 6, 2007)*, *aff'd St. Bd. #1-08 (June 18, 2008)*, *aff'd App. Div. Docket No. A-5873-07T1 (unpublished August 10, 2009)*. Board member who homeschooled his children and made decisions based on his desire to reduce spending did not violate 18A:24.1(b) (decisions in terms of educational welfare of children) or 18A:24.1(f) (special interest or partisan groups or using schools for personal gain).
- Yes.** *I/M/O Delbury*, C64-06 (October 30, 2007), *aff'd Comm'r #472-07SEC (December 6, 2007)*, *aff'd St. Bd. #1-08 (June 18, 2008)*, *aff'd App. Div. Docket No. A-5873-07T1 (unpublished August 10, 2009)*. Board member who went into school unannounced, took pictures of open windows in classrooms and maxipads in board office bathroom and spoke to reporters regarding his concerns about these items did not violate 18A:24.1(c) (no board action), 18A:24.1(d) (not administering the schools) or 18A:24.1(f) (no confidential or inaccurate information), but violated 18A:12-24.1(j) (acted on complaint prior to failure of administrative solution and other than at a public meeting). Censure (along with other violations).
- Yes.** *Jacobs v. Delbury*, C44-07 (November 25, 2008), *aff'd Comm'r #7-09SEC (January 9, 2009)*. Board member who posted email on nj.com with information about an employee's hospitalization did not violate 18A:24.1(b) (decisions in terms of educational welfare of children), 18A:12-24.1(c) (not within scope of duties as board member), 18A:12-24.1(d) (not administering the schools), but violated 18A:12-24.1(e) (private action that may compromise the board), 18A:12-24.1(g) (confidential information), and 18A:12-24.1(i) (support and protect school personnel). Six-month suspension.
- No.** *Shinevar v. Norian*, C25-07 (March 24, 2009). Board member who told press "I would advocate a cooperative approach rather than a confrontational one" did not violate 18A:12-24.1(c) (no board action) or 18A:12-24.1(e) (no compromise of board interests).
- Yes.** *Dericks v. Schiavoni*, C41-07 (February 24, 2009), *aff'd Comm'r #260-09SEC (August 18, 2009)*. Board member who sent a letter to the editor, dealing with board matters, without prior review and consent of the board violated 18A:12-24.1(e) (private action that may compromise the board). Censure.
- No.** *Benson v. Gerrity*, C21-07 (June 24, 2008). Board member who sent letter to the editor containing

inaccuracies, identifying himself as a board member but with no reference to board matters, did not violate 18A:12-24.1(e) (no compromise of board interests) or 18A:12-24.1(g) (inaccuracies did not "touch or concern his role as a Board member").

8. **No.** *Luthman v. Longo*, C17-08 (June 23, 2009). Board member who voted to approve budget in district where spouse was employed did not violate 18A:12-24(c) (no financial interest that might reasonably be expected to impair his objectivity or independence of judgment). But see *I/M/O Stewart*, C20-07 (August 26, 2008), **aff'd Comm'r #410-08SEC** (October 10, 2008): board member who voted to approve required payments to charter school where he was employed violated 18A:12-24(c) (indirect financial involvement that might reasonably be perceived to impair objectivity or independence of judgment). Reprimand.
9. **Yes.** *I/M/O Kanaby*, C53-05 (July 24, 2007), **modified Comm'r #350-07** (September 10, 2007). Board member who sent letter to superintendent, with copy to board, complaining of superintendent's treatment of the member's wife, violated 18A:12-24(b) (using official position to secure unwarranted advantages), 18A:12-24(c) (financial involvement that might reasonably be perceived to impair objectivity or independence of judgment), 18A:12-24.1(c) (confine board action to policy making, planning and appraisal) and 18A:12-24.1(i) (support and protect school personnel). One-month suspension. See also *I/M/O DeTolla*, C08-07 (October 27, 2008), **aff'd Comm'r #483-08SEC** (December 11, 2008): board member who "exerted unauthorized pressure" on superintendent to hire his wife did not violate 18A:12-24(c), 18A:12-24(g) (represent any party other than the board) or 18A:12-24.1(c), but violated 18A:12-24(b), 18A:12-24(f) (use public office to secure financial gain), 18A:12-24.1(d) (administering the schools), 18A:12-24.1(e) (private action that may compromise the board), and 18A:12-24.1(f) (use the schools for personal gain). Censure.
10. **No.** *Young v. Kreimer*, C02-08 (January 27, 2009). Board member who sought grade adjustment as an accommodation and sought reimbursement of costs and fees (but then dropped the latter claim) did not violate 18A:12-24(f) (using public office to secure financial gain). Sanctions (\$500 fine) imposed: complainant sought to retaliate against board and respondent for their enforcement of discipline policies against her son, who had been caught cheating; her presentation of "very private aspects" of the respondent's child's education, which she had received via an OPRA request about a claim made seven years earlier, was "a personal attack against the respondent rather than an action to safeguard the public's trust."
11. **Yes.** *Brown v. Matthews*, C13-07 (October 27, 2008), **aff'd Comm'r #14-11/08A** (April 14, 2009). Board member who refused to cooperate with affirmative action officer's investigation into harassment allegations made

against him, and who made offensive statements during the investigation, violated 18A:12-24.1(i) (support and protect school personnel). Censure.

12. **Yes.** *Yafet v. Smith*, C24-07 (October 27, 2008), **aff'd Comm'r #13-11/08A** (May 15, 2009). Board member who sent memorandum to board members criticizing principal's performance and recommending against tenure did not violate 18A:12-24.1(c) (no board action), but violated 18A:12-24.1(d) (not to administer the schools), 18A:12-24.1(e) (private action that may compromise the board), 18A:12-24.1(i) (support and protect school personnel) and 18A:12-24.1(j) (refer all complaints to the chief administrative officer). Six-month suspension.
13. **Yes.** *I/M/O Hollander*, C49-07 (February 24, 2009), **on appeal to Comm'r, #1-3/09A**. Board member who sent letter to the superintendent criticizing his performance and expressing concern for public trust in the board, and sent copies of the letter to the county superintendent and president of the State Board of Education, did not violate 18A:12-24.1(d) (not to administer the schools) but violated 18A:12-24.1(i) (support and protect personnel). Censure.
14. **No.** *Currie v. Salway*, C30-06 (April 22, 2008). Board member who left meeting room in order to prevent board from having a quorum to conduct business did not violate 18A:12-24.1b (make decisions in terms of educational welfare of children), 18A:12-24d (not to administer the schools), 18A:12-24e (private action that may compromise the board), 18A:12-24.1(f) (surrender independent judgment to special interest or partisan political groups), 18A:12-24.1(h) (appoint best qualified personnel), or 18A:12-24.1(i) (support and protect school personnel).
15. **Yes.** *I/M/O Grimsley*, C21-04 (January 22, 2008), **aff'd Comm'r #79-08** (February 19, 2008). Board member who assaulted superintendent in parking lot after board meeting violated 18A:12-24.1(e) (private action that may compromise the board) and 18A:12-24.1(i) (support and protect personnel). Censure.

Winter Session 2011

Courses meet
December 23rd, 2010 &
January 3rd - 14th, 2011

Morning, afternoon, evening
and online courses

Accelerate degree completion

Catch up, get ahead, or lighten
your course load



RUTGERS
NEWARK

<http://winter.newark.rutgers.edu>