

18A:12-6

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(School Ethics  
Law)

NJSA: 18A:12-6

LAWS OF: 1991 CHAPTER: 393

BILL NO: A4593/A4024

SPONSOR(S) Cimino and McGreevey

DATE INTRODUCED: October 11, 1990

COMMITTEE: ASSEMBLY: Education; Appropriations  
SENATE: Education

AMENDED DURING PASSAGE: <sup>Yes</sup> No Assembly Committee Substitute enacted

DATE OF PASSAGE: ASSEMBLY: June 17, 1991  
SENATE: December 19, 1991

DATE OF APPROVAL: January 16, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes 5-16-91 & 6-13-91  
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings--attached

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[SECOND REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, Nos. 4593 and 4024

STATE OF NEW JERSEY

ADOPTED MAY 23, 1991

Sponsored by Assemblymen CIMINO and PASCRELL

1 AN ACT providing standards of ethical conduct for local school  
2 officials and supplementing chapter 12 of Title 18A of the New  
3 Jersey Statutes.

4

5 BE IT ENACTED *by the Senate and General Assembly of the*  
6 *State of New Jersey:*

7 1. This act shall be known and may be cited as the "School  
8 Ethics Act."

9 2. The Legislature find and declares:

10 a. In our representative form of government it is essential that  
11 the conduct of members of local boards of education and local  
12 school administrators hold the respect and confidence of the  
13 people. These board members and administrators must avoid  
14 conduct which is in violation of their public trust or which  
15 creates a justifiable impression among the public that such trust  
16 is being violated.

17 b. To ensure and preserve public confidence, school board  
18 members and local school administrators should have the benefit  
19 of specific standards to guide their conduct and of some  
20 disciplinary mechanism to ensure the uniform maintenance of  
21 those standards among them.

22 3. For the purposes of this act, unless the context clearly  
23 requires a different meaning:

24 "Administrator" means any officer, other than a board  
25 member, or employee of a local school district who (i) holds a  
26 position which requires a certificate that authorizes the holder to  
27 serve as school administrator, principal, or school business  
28 administrator; or (ii) holds a position which does not require that  
29 the person hold any type of certificate but is responsible for  
30 making recommendations regarding hiring or the purchase or  
31 acquisition of any property or services by the local school  
32 district; or (iii) holds a position which requires a certificate that  
33 authorizes the holder to serve as supervisor and who is  
34 responsible for making recommendations regarding hiring or the  
35 purchase or acquisition of any property or services by the local  
36 school district;

37 "Board member" means any person holding membership,

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AAP committee amendments adopted June 13, 1991.

<sup>2</sup> Senate SED committee amendments adopted December 12, 1991.

1 whether by election or appointment, on any board of education  
2 other than the State Board of Education;

3 "Business" means any corporation, partnership, firm,  
4 enterprise, franchise, association, trust, sole proprietorship,  
5 union, political organization, or other legal entity but shall not  
6 include a local school district or any other public entity;

7 "Commission" means the School Ethics Commission established  
8 pursuant to section 2[6] 7<sup>2</sup> of this act;

9 "Commissioner" means the Commissioner of Education;

10 "Interest" means the ownership or control of more than 10% of  
11 the profits, assets, or stock of a business but shall not include the  
12 control of assets in a labor union;

13 "Local school district" means any local or regional school  
14 district established pursuant to chapter 8 or chapter 13 of Title  
15 18A of the New Jersey Statutes and any jointure commission,  
16 county vocational school, county special services district,  
17 educational services commission, educational research and  
18 demonstration center, environmental education center, and  
19 educational information and resource center;

20 2"Member of immediate family" means the spouse or  
21 dependent child of a school official residing in the same  
22 household;<sup>2</sup>

23 "Political organization" means a "political committee" or a  
24 "continuing political committee" as those terms are defined in  
25 "The New Jersey Campaign Contributions and Expenditures  
26 Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.);

27 "Relative" means the spouse, natural or adopted child, parent,  
28 or sibling of a school official;

29 "School official" means a board member or an administrator;  
30 and

31 "Spouse" means the person to whom a school official is legally  
32 married under New Jersey law.

33 4. a. <sup>2</sup>[No school official shall participate in any way in any  
34 matter regarding the employment, appointment, terms and  
35 conditions of employment, evaluation of the performance of, or  
36 promotion of a relative of the school official or any other person  
37 related to the school official by marriage.

38 b. No school official shall use, attempt to use, or allow to be  
39 used any property owned or leased by the school district for the  
40 purpose of securing financial gain for the school official, a  
41 relative of the school official, a political organization, or a  
42 business in which the school official or a relative has an interest  
43 or which employs or provides compensation to the school official  
44 or relative.

45 c. No school official shall use, attempt to use, or allow to be  
46 used the school official's position for the purpose of securing  
47 financial gain for the school official, a relative of the school  
48 official, a political organization, or a business in which the school  
49 official or a relative has an interest or which employs or provides

1 compensation to the school official or a relative.

2 d. No school official shall use, attempt to use, or allow to be  
3 used any information which is not generally available to the  
4 public, and which the school official acquired by reason of the  
5 school official's position, for the purpose of securing financial  
6 gain for the school official, a relative of the school official, a  
7 political organization, or a business in which the school official or  
8 a relative has an interest or which employs or provides  
9 compensation to the school official or a relative.

10 e. No school official shall solicit, accept, or agree to accept,  
11 either directly or indirectly, any gift, loan, political contribution,  
12 service, promise of future employment, or other thing of value if  
13 the school official knows or reasonably should know that the gift,  
14 loan, political contribution, service, promise of future  
15 employment, or other thing of value was given or offered for the  
16 purpose of influencing the school official, directly or indirectly,  
17 in the discharge of the school official's duties.

18 f. No school official shall direct or request that any person or  
19 business which is a party to a contract with the school district  
20 perform, whether for compensation or not, any services for, or  
21 contribute anything of value to a political organization.

22 g. No school official shall use the school official's position to  
23 direct or request that any other school official or any person  
24 employed by the school district perform any services, whether for  
25 compensation or not, for, or contribute anything of value to, a  
26 political organization.

27 h. No board member shall participate in any way in school  
28 district action which the board member knows or reasonably  
29 should know would result in the payment of school district funds,  
30 from whatever source derived, to the board member, a relative of  
31 the board member, a political organization, or a business in which  
32 the board member or a relative has an interest or which employs  
33 or provides compensation to the board member or a relative.

34 i. Nothing in this section shall be construed to prohibit a  
35 school official from taking any action in an official capacity if by  
36 reason of that action no benefit or detriment could reasonably be  
37 expected to accrue to the school official or a relative as a  
38 member of a group to any greater extent than any such benefit or  
39 detriment could reasonably be expected to accrue to any other  
40 member of such group.] No school official or member of his  
41 immediate family shall have an interest in a business organization  
42 or engage in any business, transaction, or professional activity,  
43 which is in substantial conflict with the proper discharge of his  
44 duties in the public interest;

45 b. No school official shall use or attempt to use his official  
46 position to secure unwarranted privileges, advantages or  
47 employment for himself, members of his immediate family or  
48 others;

49 c. No school official shall act in his official capacity in any

1 matter where he, a member of his immediate family, or a  
2 business organization in which he has an interest, has a direct or  
3 indirect financial or personal involvement that might reasonably  
4 be expected to impair his objectivity or independence of  
5 judgment;

6 d. No school official shall undertake any employment or  
7 service, whether compensated or not, which might reasonably be  
8 expected to prejudice his independence of judgment in the  
9 exercise of his official duties;

10 e. No school official, or member of his immediate family, or  
11 business organization in which he has an interest, shall solicit or  
12 accept any gift, favor, loan, political contribution, service,  
13 promise of future employment, or other thing of value based upon  
14 an understanding that the gift, favor, loan, contribution, service,  
15 promise, or other thing of value was given or offered for the  
16 purpose of influencing him, directly or indirectly, in the discharge  
17 of his official duties. This provision shall not apply to the  
18 solicitation or acceptance of contributions to the campaign of an  
19 announced candidate for elective public office, if the school  
20 official has no knowledge or reason to believe that the campaign  
21 contribution, if accepted, was given with the intent to influence  
22 the school official in the discharge of his official duties;

23 f. No school official shall use, or allow to be used, his public  
24 office or employment, or any information, not generally available  
25 to the members of the public, which he receives or acquires in  
26 the course of and by reason of his office or employment, for the  
27 purpose of securing financial gain for himself, any member of his  
28 immediate family, or any business organization with which he is  
29 associated;

30 g. No school official or business organization in which he has  
31 an interest shall represent any person or party other than the  
32 school board or school district in connection with any cause,  
33 proceeding, application or other matter pending before the school  
34 district in which he serves or in any proceeding involving the  
35 school district in which he serves. This provision shall not be  
36 deemed to prohibit representation within the context of official  
37 labor union or similar representational responsibilities;

38 h. No school official shall be deemed in conflict with these  
39 provisions if, by reason of his participation in any matter required  
40 to be voted upon, no material or monetary gain accrues to him as  
41 a member of any business, profession, occupation or group, to any  
42 greater extent than any gain could reasonably be expected to  
43 accrue to any other member of that business, profession,  
44 occupation or group;

45 i. No elected member shall be prohibited from making an  
46 inquiry for information on behalf of a constituent, if no fee,  
47 reward or other thing of value is promised to, given to or  
48 accepted by the member or a member of his immediate family,  
49 whether directly or indirectly, in return therefor; and

1        j. Nothing shall prohibit any school official, or members of his  
2 immediate family, from representing himself, or themselves, in  
3 negotiations or proceedings concerning his, or their, own  
4 interests.<sup>2</sup>

5        5. a. On a form to be prescribed by the commission and to be  
6 filed annually with the commission, each school official shall  
7 state:

8        (1) whether any relative of the school official or any other  
9 person related to the school official by marriage is employed by  
10 the school district with which the school official holds office or  
11 employment, and, if so, the name and position of each such  
12 relative;

13        (2) whether the school official or a relative is a party to a  
14 contract with the school district with which the school official  
15 holds office or employment, and, if so, the nature of the  
16 contract; and

17        (3) whether the school official or a relative is employed by,  
18 receives compensation from, or has an interest in any business  
19 which is a party to a contract with the school district with which  
20 the school official holds office or employment, and, if so, the  
21 name of each such business.

22        b. Each statement shall be signed by the school official filing  
23 it, and the school official's signature shall constitute a  
24 representation of the accuracy of the contents of the statement.

25        c. A school official who fails to file a statement or who files a  
26 statement containing information which the school official knows  
27 to be false shall be subject to reprimand, censure, suspension, or  
28 removal by the commissioner pursuant to the procedures  
29 established in section <sup>2</sup>[8] <sup>9</sup>2 of this act. Nothing in this  
30 subsection shall be construed to prevent or limit criminal  
31 prosecution.

32        d. All statements filed pursuant to this section shall be  
33 retained by the commission as public records.

34        <sup>2</sup>6. a. Each school official shall annually file a financial  
35 disclosure statement with the School Ethics Commission. All  
36 financial disclosure statements filed pursuant to this act shall  
37 include the following information which shall specify, where  
38 applicable, the name and address of each source and the school  
39 official's position:

40        (1) Each source of income, earned or unearned, exceeding  
41 \$2,000 received by the school official or a member of his  
42 immediate family during the preceding calendar year. Individual  
43 client fees, customer receipts or commissions on transactions  
44 received through a business organization need not be separately  
45 reported as sources of income. If a publicly traded security or  
46 interest derived from a financial institution is the source of  
47 income, the security or interest derived from a financial  
48 institution need not be reported unless the school official or  
49 member of his immediate family has an interest in the business  
50 organization or financial institution;

1     (2) Each source of fees and honorariums having an aggregate  
2     amount exceeding \$250 from any single source for personal  
3     appearances, speeches or writings received by the school official  
4     or a member of his immediate family during the preceding  
5     calendar year;

6     (3) Each source of gifts, reimbursements or prepaid expenses  
7     having an aggregate value exceeding \$250 from any single source,  
8     excluding relatives, received by the school official or a member  
9     of his immediate family during the preceding calendar year; and

10    (4) The name and address of all business organizations in which  
11    the school official or a member of his immediate family had an  
12    interest during the preceding calendar year.

13    b. The commission shall prescribe a financial disclosure  
14    statement form for filing purposes. Initial financial disclosure  
15    statements shall be filed within 90 days following the effective  
16    date of this act. Thereafter, statements shall be filed on or  
17    before April 30th each year.

18    c. All financial disclosure statements filed shall be public  
19    records.<sup>2</sup>

20    <sup>2</sup>[6.] 7.<sup>2</sup> a. There is hereby established in the State  
21 Department of Education a commission to be known as the  
22 "School Ethics Commission." The commission shall consist of  
23 nine members <sup>2</sup>, not more than five of whom shall be from the  
24 same political party<sup>2</sup>: two shall be board members; two shall be  
25 school administrators; and five shall be persons who are not  
26 school officials. All members shall be appointed by the Governor  
27 and shall serve at the pleasure of the Governor.

28    b. Members of the commission shall serve without  
29 compensation but shall be reimbursed for necessary expenses  
30 incurred in the performance of their duties under this act.

31    c. No member of the commission shall serve on or campaign  
32 for any office of a political organization during membership on  
33 the commission.

34    d. All members shall serve for a term of three years, except  
35 that for the members initially appointed, one board member, one  
36 administrator, and one public member shall be appointed for a  
37 term of three years; one board member and two public members  
38 shall be appointed for a term of two years; and one administrator  
39 and two public members shall be appointed for a term of one year.

40    e. Each member shall serve until the member's successor has  
41 been appointed and qualified. If a school official appointed to the  
42 commission ceases to be a school official, the person's  
43 appointment to the commission shall expire on the next  
44 succeeding July 1, or when the person's successor has been  
45 appointed and qualified, whichever occurs earlier. However, the  
46 membership of a school official who has been removed from  
47 office for official misconduct shall immediately cease upon such  
48 removal.

49    f. Any vacancy occurring in the membership of the commission

1 shall be filled in the same manner as the original appointment for  
2 the unexpired term.

3 g. The members of the commission shall, by majority vote,  
4 select from among themselves one member to serve as  
5 chairperson for a term not to exceed one year.

6 <sup>2</sup>[7.] 8.2 a. The commission may appoint professional  
7 employees and clerical staff and may incur expenses which are  
8 necessary to carry out the provisions of this act within the limits  
9 of funds appropriated or otherwise made available to it for that  
10 purpose. All appointments shall be made in accordance with the  
11 provisions of Title 11A of the New Jersey Statutes.

12 b. In order to carry out the provisions of this act, the  
13 commission shall have the power to issue advisory opinions,  
14 receive complaints filed pursuant to section <sup>2</sup>[8] 9<sup>2</sup> of this act,  
15 receive and retain disclosure statements filed pursuant to  
16 <sup>2</sup>[section] sections<sup>2</sup> 5<sup>2</sup> and 6<sup>2</sup> of this act, conduct investigations,  
17 hold hearings, and compel the attendance of witnesses and the  
18 production of documents as it may deem necessary and relevant  
19 to such matter under investigation. The members of the  
20 commission and persons appointed by it for this purpose are  
21 empowered to administer oaths and examine witnesses under oath.

22 c. A person shall not be excused from testifying or producing  
23 evidence on the ground that the testimony or evidence might tend  
24 to incriminate the person, but an answer shall not be used or  
25 admitted in any proceeding against the person, except in a  
26 prosecution for perjury. The foregoing use immunity shall not be  
27 granted without prior written approval of the Attorney General.  
28 If use immunity is not granted, the person may be excused from  
29 testifying or producing evidence on the ground that the testimony  
30 or evidence might tend to incriminate the person.

31 d. The commission shall promptly report to the Attorney  
32 General any information which indicates the possible violation of  
33 any criminal law.

34 <sup>2</sup>[8.] 9.2 a. Any person, including a member of the  
35 commission, may file a complaint alleging a violation of the  
36 provisions of this act by submitting it, on a form prescribed by  
37 the commission, to the commission. No complaint shall be  
38 accepted by the commission unless it has been signed under oath  
39 by the complainant. If a member of the commission submits the  
40 complaint, the member shall not participate in any subsequent  
41 proceedings on that complaint in the capacity of a commission  
42 member. If a commission member serves on the school board of,  
43 or is employed by, the school district which employs or on whose  
44 board the school official named in the complaint serves, the  
45 commission member shall not participate in any subsequent  
46 proceedings on that complaint.

47 b. Upon receipt of a complaint, the commission shall serve a  
48 copy of the complaint on each school official named therein and  
49 shall provide each named school official with the opportunity to



1 submit a written statement under oath. The commission shall  
2 thereafter decide by majority vote whether probable cause exists  
3 to credit the allegations in the complaint. If the commission  
4 decides that probable cause does not exist, it shall dismiss the  
5 complaint and shall so notify the complainant and any school  
6 official named in the complaint. The dismissal shall constitute  
7 final agency action. If the commission determines that probable  
8 cause exists, it shall refer the matter to the Office of  
9 Administrative Law for a hearing to be conducted in accordance  
10 with the "Administrative Procedures Act," P.L.1968, c.410  
11 (C.52:14B-1 et seq.), and shall so notify the complainant and each  
12 school official named in the complaint.

13 c. Upon completion of the hearing, the commission, by  
14 majority vote, shall determine whether the conduct complained  
15 of constitutes a violation of this act or whether the complaint  
16 should be dismissed. If a violation is found, the commission shall,  
17 by majority vote, recommend to the commissioner the reprimand,  
18 censure, suspension, or removal of the school official found to  
19 have violated this act. The commission shall state in writing its  
20 findings of fact and conclusions of law. The commissioner shall  
21 then act on the commission's recommendation regarding the  
22 sanction.

23 d. Any appeal of the commission's determination regarding a  
24 violation of this act and of the commissioner's decision regarding  
25 the sanction shall be to the State Board of Education in  
26 accordance with Title 18A of the New Jersey Statutes.

27 e. If prior to the hearing the commission determines, by  
28 majority vote, that the complaint is frivolous, the commission  
29 may impose on the complainant a fine not to exceed \$500. The  
30 standard for determining whether a complaint is frivolous shall be  
31 the same as that provided in subsection b. of section 1 of  
32 P.L.1988, c.46 (C.2A:15-59.1)

33 <sup>2</sup>[9.] 10.<sup>2</sup> Notwithstanding the provisions of any other law or  
34 regulation to the contrary, the sanctions authorized by this act  
35 may be imposed on any school official pursuant to the procedures  
36 established in section <sup>2</sup>[8] 9<sup>2</sup> of this act. However, nothing in  
37 this act shall be construed to limit the authority of any board of  
38 education or any appointing authority to process charges or  
39 complaints pursuant to the procedures contained in Titles 18A or  
40 11A of the New Jersey Statutes.

41 <sup>2</sup>[10.] 11.<sup>2</sup> A school official may request and obtain from the  
42 commission an advisory opinion as to whether any proposed  
43 activity or conduct would in its opinion constitute a violation of  
44 the provisions of this act. Advisory opinions of the commission  
45 shall not be made public, except when the commission, by a vote  
46 of at least six members, directs that the opinion be made public.  
47 Public advisory opinions shall not disclose the name of the school  
48 official.

49 <sup>2</sup>[11.] 12.<sup>2</sup> The commission shall not process any complaint,

1 issue a final ruling or issue any advisory opinion on a matter  
2 actually pending in any court of law or administrative agency of  
3 this State.

4 <sup>2</sup>[<sup>1</sup>12.] <sup>2</sup>13.<sup>2</sup> Each newly elected or appointed board member  
5 shall complete during the first year of the member's first term a  
6 training program to be prepared and offered by the New Jersey  
7 School Boards Association regarding the skills and knowledge  
8 necessary to serve as a local school board member.<sup>1</sup>

9 <sup>1</sup>[12.] <sup>2</sup>[<sup>13.1</sup>] <sup>2</sup>14.<sup>2</sup> The State Board of Education may  
10 promulgate regulations pursuant to the "Administrative  
11 Procedures Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to  
12 effectuate the purposes of this act.

13 <sup>1</sup>[13.] <sup>2</sup>[<sup>14.1</sup>] <sup>2</sup>15.<sup>2</sup> This act shall take effect on the ninetieth  
14 day after enactment, except that the appointments authorized by  
15 this act and the administrative preparations for its  
16 implementation may be made prior to the effective date.

17

18

19 EDUCATION

20

21 Provides standards of ethical conduct for local school officials  
22 and establishes a School Ethics Commission.

ASSEMBLY, No. 4024  
STATE OF NEW JERSEY

INTRODUCED OCTOBER 11, 1990

By Assemblymen CIMINO and McGreevey

1 AN ACT concerning standards of ethical conduct for members of  
2 local boards of education and supplementing chapter 12 of Title  
3 18A of the New Jersey Statutes.

4  
5 BE IT ENACTED by the Senate and General Assembly of the  
6 State of New Jersey:

7 1. This act shall be known and may be cited as the "School  
8 Board Ethics Law."

9 2. The Legislature finds and declares that:

10 a. In our representative form of government, it is essential  
11 that the conduct of members of boards of education shall merit  
12 the respect and confidence of the people. School board members  
13 must, therefore, observe appropriate ethical standards and avoid  
14 conduct which is in violation of their public trust or which  
15 creates a justifiable impression among the public that this trust is  
16 being violated.

17 b. It is the purpose of this act to provide a method of assuring  
18 that standards of ethical conduct for school board members shall  
19 be clear, consistent, uniform in their application and enforceable  
20 on a statewide basis, and to provide school board members with  
21 advice and information concerning possible conflicts of interest  
22 which might arise in the conduct of their duties.

23 3. For the purposes of this act, unless the context clearly  
24 requires a different meaning:

25 "Advisory opinion" means a written opinion given by the School  
26 Board Ethics Review Commission in response to a written inquiry  
27 made by a board member as to whether a given set of facts and  
28 circumstances would constitute a violation of the provisions of  
29 this act.

30 "Board member" means any person holding membership on any  
31 public board of education, whether by election or appointment.

32 "Business" means any corporation, partnership, firm,  
33 enterprise, franchise, association, trust, sole proprietorship, union  
34 or other legal entity organized for profit, or a non-profit  
35 organization.

36 "Commission" means the School Board Ethics Review  
37 Commission established by this act.

38 "Interest" means the ownership or control of more than 10% of  
39 the profits, assets or stock of a business organization but shall  
40 not include the control of assets in a non-profit entity or labor  
41 union.

1 "Member of immediate family" means the spouse or dependent  
2 child of a school board member residing in the same household.

3 4. a. There is established in, but not of, the Department of  
4 Education a commission to be known as the "School Board Ethics  
5 Review Commission." For the purpose of complying with the  
6 provisions of Article V, Section IV, paragraph 1 of the New  
7 Jersey Constitution, the commission shall be allocated within the  
8 Department of Education, but notwithstanding this allocation, the  
9 commission shall be independent of any supervision or control by  
10 the department or the Commissioner of Education or any officer  
11 or employee thereof. The commission shall be an instrumentality  
12 of the State exercising public and essential governmental  
13 functions of the State.

14 b. The commission shall consist of nine members who shall be  
15 residents of this State. Five of the members shall be members of  
16 local boards of education within the State. The remaining four  
17 members shall not be members of any board of education. All of  
18 the members shall be appointed by the Governor, with the advice  
19 and consent of the Senate.

20 c. All members of the commission shall serve for a term of  
21 three years, except, of those members initially appointed, three  
22 shall be appointed for a term of three years; three shall be  
23 appointed for terms of two years; and three shall be appointed  
24 for a term of one year.

25 d. The Governor shall designate the first chairman and vice  
26 chairman of the commission, each of whom shall serve in that  
27 capacity for a one year term. Thereafter, the members of the  
28 commission shall annually elect a chairman and vice chairman  
29 from among the members. The commission shall annually elect a  
30 treasurer and secretary from among the members of the  
31 commission.

32 e. The members of the commission shall serve without  
33 compensation but shall be reimbursed for actual expenses  
34 reasonably incurred in the performance of their official duties.

35 f. Each member of the commission shall serve until a  
36 successor has been appointed and qualified. If any member  
37 ceases to be a member of a board of education, his appointment  
38 to the commission shall expire on the next succeeding July 1, or  
39 at the time his successor has been appointed and qualified.

40 g. Any vacancy occurring in the membership of the  
41 commission shall be filled for the unexpired term in the same  
42 manner as the original appointment.

43 h. The commission may, within the limits of funds  
44 appropriated or otherwise made available to it, employ legal  
45 counsel and any other professional, technical, clerical or other  
46 assistants, and incur expenses necessary for the performance of  
47 its duties. All clerical staff so appointed shall be in the career  
48 service of the civil service and shall be subject to the provisions

1 of Title 11A of the New Jersey Statutes.

2 5. The first meeting of the commission shall take place as soon  
3 as practicable following the appointment and qualification of a  
4 majority of the commission members. The commission shall meet  
5 pursuant to a schedule to be established at its first meeting and  
6 at the call of the chairperson, but in no instance shall the  
7 commission meet less than six times a year. Five members of the  
8 commission shall constitute a quorum for the conducting of  
9 official commission business and the commission shall not take  
10 any action without the affirmative vote of at least five  
11 members. A vacancy on the commission shall not impair the  
12 right of a quorum of the members to exercise the powers and  
13 perform the duties of the commission.

14 6. The commission may establish one or more subcommissions  
15 of the commission which the members may deem appropriate and  
16 may appoint members of the commission thereto. Each  
17 subcommission shall consist of at least three members and may  
18 be granted any power which is vested in the commission by this  
19 act. The commission shall determine procedures to be followed  
20 by any subcommission in the performance of its duties. The  
21 decision of any subcommission shall be considered a final decision  
22 and binding on the parties and the commission unless an appeal is  
23 filed with the full commission within ten days of the date of the  
24 decision and the full commission decides to hear the appeal. The  
25 full commission may also review any decision of a subcommission  
26 on its own motion within 30 days of the date of the decision of  
27 the subcommission. Any subcommission may be dissolved at any  
28 time by the commission.

29 7. The commission, in order to perform its duties under the  
30 provisions of this act, shall have the power to conduct  
31 investigations, hold hearings, compel the attendance of witnesses  
32 and the production before it of any books and papers as it may  
33 deem necessary, proper and relevant to the matter under  
34 investigation. The members of the commission and the persons  
35 appointed by it for this purpose are hereby empowered to  
36 administer oaths and examine witnesses under oath.

37 8. The commission shall have the authority to issue advisory  
38 opinions as to whether a given set of facts and circumstances  
39 would constitute a violation of the provisions of section 12 of this  
40 act upon the request of any school board member. Advisory  
41 opinions made public shall not disclose the name of the school  
42 board member unless the commission determines otherwise.

43 9. The commission shall have jurisdiction to initiate, receive,  
44 hear and decide complaints regarding alleged violations of the  
45 provisions of section 12 of this act by members of any local board  
46 of education.

47 10. a. A complaint shall be submitted to the commission on a  
48 form prescribed by it, and shall be signed under oath by the

1 complainant and accompanied by a filing fee of \$25.00. The  
2 filing fee shall be used to defray the costs of the commission.

3 b. The commission, upon receipt of a signed written complaint  
4 by any person alleging that the conduct of any school board  
5 member is in conflict with the provisions of section 12 of this  
6 act, shall acknowledge receipt of the complaint within 30 days of  
7 receipt and initiate an investigation concerning the facts and  
8 circumstances set forth in the complaint. The commission shall  
9 make a determination as to whether the complaint is within its  
10 jurisdiction, or is frivolous or without any reasonable factual  
11 basis. If the commission shall conclude that the complaint is  
12 outside its jurisdiction, or is frivolous or without factual basis, it  
13 shall reduce that conclusion to writing and shall transmit a copy  
14 thereof to the complainant and to the school board member  
15 against whom the complaint was filed. If the commission finds  
16 that the complaint is within its jurisdiction and not frivolous or  
17 without factual basis, it shall notify the school board member  
18 against whom the complaint was filed of the nature of the  
19 complaint and the facts and circumstances set forth therein. The  
20 school board member shall have the opportunity to present the  
21 commission with any statement or information concerning the  
22 complaint which he wishes. Thereafter, if the commission  
23 determines that a reasonable doubt exists as to whether the  
24 school board member is in conflict with the provisions of this act,  
25 the commission shall conduct a hearing concerning the possible  
26 violation and any other facts and circumstances which may have  
27 come to the attention of the commission with respect to the  
28 conduct of the school board member.

29 c. Any hearing held pursuant to subsection b. of this section  
30 shall be conducted in conformity with the rules and procedures,  
31 insofar as they may be applicable, providing for hearings by a  
32 State agency in contested cases under the "Administrative  
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), provided  
34 that hearings held under this act shall be conducted by the  
35 commission and not by the Office of Administrative Law. The  
36 commission shall not conduct hearings, nor issue a ruling or  
37 decision upon a matter actually pending in any court of law in  
38 this State.

39 d. The commission shall render a written decision as to  
40 whether the conduct of the officer or employee is in conflict with  
41 the provisions of section 12 of this act. If the commission  
42 determines that the officer or employee is in conflict with the  
43 provisions of section 12 of this act, it may impose any penalties  
44 which it believes appropriate within the limitations of subsection  
45 e. of this section.

46 e. A board member who is found to have violated the  
47 provisions of section 12 of this act shall be fined not more than  
48 \$500, which penalty may be collected in a summary proceeding

1 under "the penalty enforcement law," N.J.S.2A:58-1 et seq. The  
2 commission may also suspend, reprimand, censure, or remove a  
3 board member from office. Any order issued by the commission  
4 shall be binding upon the parties unless stayed by the commission  
5 or by a court of competent jurisdiction pending appeal. A final  
6 decision of the commission may be appealed in the same manner  
7 as any other final State agency decision.

8 f. A final decision of the commission shall be available for  
9 public review. All statements, complaints, requests or other  
10 written materials filed pursuant to this act, and any rulings,  
11 opinions, judgments, transcripts or other official papers prepared  
12 pursuant to this act shall be preserved for a period of at least  
13 five years from the date of filing or preparation, as the case may  
14 be.

15 11. If the commission determines that any complaint was  
16 commenced, used or continued in bad faith, solely for the purpose  
17 of harassment, delay or malicious injury, the school board  
18 member against which the complaint was lodged may be awarded  
19 all reasonable costs and attorney fees incurred in the member's  
20 defense.

21 A party seeking an award under this section shall make  
22 application to the commission supported by an affidavit stating in  
23 detail:

24 a. The nature of the services rendered, the responsibility  
25 assumed, the results obtained, the amount of time spent by the  
26 attorney, any particular novelty or difficulty, the time spent and  
27 services rendered by secretaries and staff, other factors  
28 pertinent in the evaluation of the services rendered, the amount  
29 of the allowance applied for, an itemization of the disbursements  
30 for which reimbursement is sought, and any other factors  
31 relevant in evaluating fees and costs; and

32 b. How much has been paid to the attorney and what provision,  
33 if any, has been made for the payment of fees in the future.

34 12. Each member of a local board of education shall comply  
35 with the following provisions:

36 a. No school board member or member of his immediate  
37 family shall have an interest in a business organization or engage  
38 in any business, transaction, or professional activity, which is in  
39 substantial conflict with the proper discharge of his duties in the  
40 public interest;

41 b. No school board shall, for a period of six months next  
42 subsequent to the termination of office of a member of that  
43 board:

44 (1) award any contract which is not publicly bid to a former  
45 member of that board;

46 (2) allow a former member of that board to represent, appear  
47 for or negotiate on behalf of any other party before that board;  
48 or

1 (3) employ for compensation, except pursuant to open  
2 competitive examination in accordance with Title 11A of the  
3 New Jersey Statutes and the rules and regulations promulgated  
4 pursuant thereto, any former member of that board.

5 The restrictions contained in this subsection shall also apply to  
6 any business organization in which the former board member  
7 holds an interest.

8 c. No school board member shall use or attempt to use his  
9 official position to secure unwarranted privileges or advantages  
10 for himself or others;

11 d. No school board member shall act in his official capacity in  
12 any matter where he, a member of his immediate family, or a  
13 business organization in which he has an interest, has a direct or  
14 indirect financial or personal involvement that might reasonably  
15 be expected to impair his objectivity or independence of  
16 judgment;

17 e. No school board member shall undertake any employment or  
18 service, whether compensated or not, which might reasonably be  
19 expected to prejudice his independence of judgment in the  
20 exercise of his official duties;

21 f. No school board member, member of his immediate family,  
22 or business organization in which he has an interest, shall solicit  
23 or accept any gift, favor, loan, political contribution, service,  
24 promise of future employment, or other thing of value based upon  
25 an understanding that the gift, favor, loan, contribution, service,  
26 promise, or other thing of value was given or offered for the  
27 purpose of influencing him, directly or indirectly, in the discharge  
28 of his official duties. This provision shall not apply to the  
29 solicitation or acceptance of contributions to the campaign of an  
30 announced candidate for elective public office, if the school  
31 board member has no knowledge or reason to believe that the  
32 campaign contribution, if accepted, was given with the intent to  
33 influence the school board member in the discharge of his official  
34 duties;

35 g. No school board member shall use, or allow to be used, his  
36 public office or employment, or any information, not generally  
37 available to the members of the public, which he receives or  
38 acquires in the course of and by reason of his office, for the  
39 purpose of securing financial gain for himself, any member of his  
40 immediate family, or any business organization with which he is  
41 associated;

42 h. No school board member or business organization in which  
43 he has an interest shall represent any person or party other than  
44 the school board in connection with any cause, proceeding,  
45 application or other matter pending before the school board on  
46 which he serves;

47 i. No school board member shall be deemed in conflict with  
48 these provisions if, by reason of his participation in the approval



1 of any resolution or other matter required to be voted upon or  
2 which is subject to board approval or veto, no material or  
3 monetary gain accrues to him as a member of any business,  
4 profession, occupation or group, to any greater extent than any  
5 gain could reasonably be expected to accrue to any other member  
6 of the business, profession, occupation or group.

7 Nothing in this section shall prohibit any school board member,  
8 or members of his immediate family, from representing himself,  
9 or themselves, in negotiations or proceedings concerning his, or  
10 their, own interests.

11 13. The legislature acknowledges that in addition to the  
12 conduct specifically prohibited by section 12 of this act, school  
13 board members should act in accordance with the following  
14 ethical standards:

15 a. A board member shall uphold and enforce all laws, State  
16 board rules and regulations, and court orders pertaining to the  
17 schools. Any desired changes shall be brought about only through  
18 legal and ethical procedures.

19 b. A board member shall make decisions to promote the  
20 educational welfare of children and shall seek to develop and  
21 maintain public schools which meet the individual needs of all  
22 children regardless of their ability, race, creed, sex or social  
23 standing.

24 c. A board member shall confine his board action to  
25 policy-making, planning and appraisal, and shall help to frame  
26 policies and plans only after the board has consulted those who  
27 will be affected by them. Recognizing that authority rests with a  
28 board of education, a board member shall make no personal  
29 promises nor take any private action which may compromise the  
30 board.

31 d. A board member shall carry out his responsibilities without  
32 attempting to administer the schools, but, together with his  
33 fellow board members, ensure that they are well run.

34 e. A board member shall not surrender his independent  
35 judgement to special interests or partisan political groups.

36 f. A board member shall hold confidential all matters  
37 pertaining to the schools which, if disclosed, would needlessly  
38 injure individuals or the schools. In all other matters, he shall  
39 provide accurate information and in concert with his fellow board  
40 members, interpret to the staff the aspirations of the community  
41 for its schools.

42 g. A board member shall vote to appoint the best qualified  
43 personnel available after consideration of the recommendation of  
44 the chief administrative officer.

45 h. A board member shall support and protect school personnel  
46 in the proper performance of their duties.

47 i. A board member shall refer all complaints to the chief  
48 administrative officer and shall act on these complaints at public

1 meetings only after failure of an administrative solution.

2 14. The commission shall adopt, pursuant to the  
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
4 seq.), rules and regulations necessary or appropriate for the  
5 implementation of this act.

6 15. This act shall take effect on July 1 following the date of  
7 enactment, except that any appointments authorized by this act  
8 and any administrative preparations for carrying its provisions  
9 into effect may be made prior to the effective date.

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SPONSOR'S STATEMENT

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This bill establishes a School Board Ethics Review Commission. The commission has jurisdiction over complaints filed against members of local boards of education alleging violations of the ethics provisions set forth in the act. The code of ethics established by the bill proscribes actions or conduct by school board members that would violate the public trust. The commission may assess penalties for violation of the act including fines, removal from office, or both.

The commission may also issue advisory opinions upon the request of a member of a board of education as to whether a given set of facts and circumstances would constitute a violation of the ethics provisions contained in this act.

Specific conduct prohibited in this legislation include conflicts of interest, actions which might foster the appearance of such conflicts, or acceptance of gifts, favors or services which appear to be part of an attempt to influence a school board member's judgment. The bill also specifically prohibits the use of a board member's official position or information to obtain privileges or pecuniary gain for himself or for his friends.

The bill also provides a set of ethical guidelines which a school board member should observe but which are not deemed prohibited conduct under the terms of the bill and a school board member will not be subject to the penalties provided by the act for the violation of these standards.

The commission is given the authority to initiate, receive, hear and decide complaints over which it is granted jurisdiction. The commission would have the power to investigate alleged violations of this act, conduct hearings, and is directed to issue written decisions. The commission would also have the authority to establish rules and procedures to help it carry out its responsibilities.

The nine members of the commission would be appointed by the Governor, with the advice and consent of the Senate, for three year terms. Five of the nine members would be members of local boards of education, and the remaining four members would not

1 be members of a local board of education. The bill also  
2 establishes procedures for staggering the first appointments and  
3 filling vacancies.

4 The members of the commission would serve without  
5 compensation except for reimbursement for necessary expenses.  
6 The bill permits the commission to employ legal counsel, as well  
7 as clerical and other assistants, and to incur other expenses  
8 necessary to the performance of its duties.

9

10

EDUCATION

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13

The "School Board Ethics Law."

STATE OF NEW JERSEY

INTRODUCED MARCH 4, 1991

LAW C:  
DO NOT

By Assemblymen CIMINO, PASCRELL, McGreevey, Villapiano,  
Scerni, Spadaro, Roberts, Assemblywoman Mullen,  
Assemblymen Marsella, Naples, Mecca, Doyle,  
Bryant and Duch

1 AN ACT concerning standards of ethical conduct for local school  
2 officials and supplementing chapter 12 of Title 18A of the New  
3 Jersey Statutes.

4  
5 BE IT ENACTED *by the Senate and General Assembly of the*  
6 *State of New Jersey:*

7 1. This act shall be known and may be cited as the "School  
8 Ethics Act."

9 2. The Legislature find and declares:

10 a. In our representative form of government it is essential that  
11 the conduct of members of local boards of education and local  
12 school administrators hold the respect and confidence of the  
13 people. These board members and administrators must avoid  
14 conduct which is in violation of their public trust or which  
15 creates a justifiable impression among the public that such trust  
16 is being violated.

17 b. To ensure and preserve public confidence, school board  
18 members and local school administrators should have the benefit  
19 of specific standards to guide their conduct and of some  
20 disciplinary mechanism to ensure the uniform maintenance of  
21 those standards among them.

22 3. For the purposes of this act, unless the context clearly  
23 requires a different meaning:

24 "Administrator" means any officer, other than a board  
25 member, or employee of a local school district who (i) holds a  
26 position which requires a certificate that authorizes the holder to  
27 serve as school administrator; or (ii) holds a position which does  
28 not require that the person hold any type of certificate but is  
29 responsible for making recommendations regarding hiring or the  
30 purchase or acquisition of any property or services by the local  
31 school district;

32 "Board member" means any person holding membership,  
33 whether by election or appointment, on any board of education  
34 other than the State Board of Education;

35 "Business" means any corporation, partnership, firm,  
36 enterprise, franchise, association, trust, sole proprietorship,  
37 union, political organization, or other legal entity but shall not  
38 include a local school district or any other public entity;

39 "Commission" means the School Ethics Commission established  
40 pursuant to section 6 of this act;

- 1 "Commissioner" means the Commissioner of Education;
- 2 "Interest" means the ownership or control of more than 10% of  
3 the profits, assets, or stock of a business but shall not include the  
4 control of assets in a labor union;
- 5 "Local school district" means any local or regional school  
6 district established pursuant to chapter 8 or chapter 13 of Title  
7 18A of the New Jersey Statutes and any jointure commission,  
8 county vocational school, county special services district,  
9 educational services commission, educational research and  
10 demonstration center, environmental education center, and  
11 educational information and resource center;
- 12 "Political organization" means a "political committee" or a  
13 "continuing political committee" as those terms are defined in  
14 "The New Jersey Campaign Contributions and Expenditures  
15 Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.);
- 16 "Relative" means the spouse, natural or adopted child, parent,  
17 or sibling of a school official;
- 18 "School official" means a board member or an administrator;  
19 and
- 20 "Spouse" means the person to whom a school official is legally  
21 married under New Jersey law.
- 22 4. a. No school official shall participate in any way in any  
23 matter regarding the employment, appointment, terms and  
24 conditions of employment, evaluation of the performance of, or  
25 promotion of a relative of the school official.
- 26 b. No school official shall use, attempt to use, or allow to be  
27 used any property owned or leased by the school district for the  
28 purpose of securing financial gain for the school official, a  
29 relative of the school official, a political organization, or a  
30 business in which the school official or a relative has an interest  
31 or which employs or provides compensation to the school official  
32 or relative.
- 33 c. No school official shall use, attempt to use, or allow to be  
34 used the school official's position for the purpose of securing  
35 financial gain for the school official, a relative of the school  
36 official, a political organization, or a business in which the school  
37 official or a relative has an interest or which employs or provides  
38 compensation to the school official or a relative.
- 39 d. No school official shall use, attempt to use, or allow to be  
40 used any information which is not generally available to the  
41 public, and which the school official acquired by reason of the  
42 school official's position, for the purpose of securing financial  
43 gain for the school official, a relative of the school official, a  
44 political organization, or a business in which the school official or  
45 a relative has an interest or which employs or provides  
46 compensation to the school official or a relative.
- 47 e. No school official shall solicit, accept, or agree to accept,  
48 either directly or indirectly, any gift, loan, political contribution,  
49 service, promise of future employment, or other thing of value if  
50 the school official knows or reasonably should know that the gift,

1 loan, political contribution, service, promise of future  
2 employment, or other thing of value was given or offered for the  
3 purpose of influencing the school official, directly or indirectly,  
4 in the discharge of the school official's duties.

5 f. No school official shall direct or request that any other  
6 school official, any person employed by the school district, or any  
7 person or business which is a party to a contract with the school  
8 district perform, whether for compensation or not, any services  
9 for or contribute anything of value to a political organization.

10 g. No board member shall participate in any way in school  
11 district action which the board member knows or reasonably  
12 should know would result in the payment of school district funds,  
13 from whatever source derived, to the board member, a relative of  
14 the board member, a political organization, or a business in which  
15 the board member or a relative has an interest or which employs  
16 or provides compensation to the board member or a relative.

17 h. Nothing in this section shall be construed to prohibit a  
18 school official from taking any action in an official capacity if by  
19 reason of that action no benefit or detriment could reasonably be  
20 expected to accrue to the school official or a relative as a  
21 member of a group to any greater extent than any such benefit or  
22 detriment could reasonably be expected to accrue to any other  
23 member of such group.

24 5. a. On a form to be prescribed by the commission and to be  
25 filed annually with the commission, each school official shall  
26 state:

27 (1) whether any relative of the school official is employed by  
28 the school district with which the school official holds office or  
29 employment, and, if so, the name and position of each such  
30 relative;

31 (2) whether the school official or a relative is a party to a  
32 contract with the school district with which the school official  
33 hold office or employment, and, if so, the nature of the contract;  
34 and

35 (3) whether the school official or a relative is employed by,  
36 receives compensation from, or has an interest in any business  
37 which is a party to a contract with the school district with which  
38 the school official holds office or employment, and, if so, the  
39 name of each such business.

40 b. Each statement shall be signed by the school official filing  
41 it, and the school official's signature shall constitute a  
42 representation of the accuracy of the contents of the statement.

43 c. A school official who fails to file a statement or who files a  
44 statement containing information which the school official knows  
45 to be false shall be subject to reprimand, censure, suspension, or  
46 removal by the commissioner pursuant to the procedures  
47 established in section 8 of this act. Nothing in this subsection  
48 shall be construed to prevent or limit a criminal prosecution.

49 d. All statements filed pursuant to this section shall be  
50 retained by the commission as public records.

1       6. a. There is hereby established in the State Department of  
2 Education a commission to be known as the "School Ethics  
3 Commission." The commission shall consist of nine members;  
4 two of whom shall be board members appointed by the  
5 commissioner upon the recommendation of the New Jersey School  
6 Boards Association; two of whom shall be school administrators  
7 appointed by the commissioner; and five of whom shall be persons  
8 who are not school officials and who shall be appointed by the  
9 Governor.

10       b. Members of the commission shall serve without  
11 compensation but shall be reimbursed for necessary expenses  
12 incurred in the performance of their duties under this act.

13       c. No member of the commission shall serve on or campaign  
14 for any office of a political organization during membership on  
15 the commission.

16       d. All members shall serve for a term of three years, except  
17 that for the members initially appointed, two shall be appointed  
18 by the Governor and one by the commissioner for a term of three  
19 years; one shall be appointed by the Governor and one by the  
20 commissioner for a term of two years; and two shall be appointed  
21 by the Governor and two by the commissioner for a term of one  
22 year.

23       e. Each member shall serve until the member's successor has  
24 been appointed and qualified. If a person appointed by the  
25 commissioner ceases to be a school official, the person's  
26 appointment to the commission shall expire on the next  
27 succeeding July 1, or when the person's successor has been  
28 appointed and qualified, whichever occurs later.

29       f. Any vacancy occurring in the membership of the commission  
30 shall be filled in the same manner as the original appointment for  
31 the unexpired term.

32       g. The members of the commission shall, by majority vote,  
33 select from among themselves one member to serve as  
34 chairperson for a term not to exceed one year.

35       7. a. The commission may appoint professional employees and  
36 clerical staff and may incur expenses which are necessary to  
37 carry out the provisions of this act within the limits of funds  
38 appropriated or otherwise made available to it for that purpose.  
39 All clerical staff so appointed shall be in the career service of  
40 the civil service and shall be subject to the provisions of Title  
41 11A of the New Jersey Statutes.

42       b. In order to carry out the provisions of this act, the  
43 commission shall have the power to issue advisory opinions,  
44 receive complaints filed pursuant to section 8 of this act, receive  
45 and retain disclosure statements filed pursuant to section 5 of  
46 this act, conduct investigations, hold hearings, and compel the  
47 attendance of witnesses and the production of documents as it  
48 may deem necessary and relevant to the matter under  
49 investigation. The members of the commission and persons  
50 appointed by it for this purpose are empowered to

1 administer oaths and examine witnesses under oath.

2 c. A person shall not be excused from testifying or producing  
3 evidence on the ground that the testimony or evidence might tend  
4 to incriminate the person, but an answer shall not be used or  
5 admitted in any proceeding against the person, except in a  
6 prosecution for perjury. The foregoing use immunity shall not be  
7 granted without prior written approval of the Attorney General.

8 d. The commission shall promptly report to the Attorney  
9 General any information which indicates the possible violation of  
10 any criminal law.

11 8. a. Any person, including a member of the commission, may  
12 file a complaint alleging a violation of the provisions of section 4  
13 of this act by submitting it, on a form prescribed by the  
14 commission, to the commission. No complaint shall be accepted  
15 by the commission unless it has been signed under oath by the  
16 complainant. If a member of the commission submits the  
17 complaint, the member shall not participate in any subsequent  
18 proceedings on that complaint in the capacity of a commission  
19 member. If a commission member serves on the school board of  
20 or is employed by the school district which employs or on whose  
21 board the school official named in the complaint serves, the  
22 commission member shall not participate in any subsequent  
23 proceedings on that complaint.

24 b. Upon receipt of a complaint, the commission shall  
25 investigate the complaint and shall decide by majority vote  
26 whether probable cause exists to credit the allegations in the  
27 complaint. If the commission decides that probable cause does  
28 not exist, it shall dismiss the complaint and shall so notify the  
29 complainant and any school official named in the complaint. The  
30 dismissal shall constitute final agency action. If the commission  
31 determines that probable cause exists, it shall issue a formal  
32 complaint and hold a hearing thereon.

33 c. Upon completion of the hearing, the commission, by  
34 majority vote, shall determine whether the conduct complained  
35 of constitutes a violation of section 4 of this act or whether the  
36 complaint should be dismissed. If a violation is found, the  
37 commission shall, by majority vote, recommend to the  
38 commissioner the reprimand, censure, suspension, or removal of  
39 the school official found to have violated this act. The  
40 commission shall state in writing its findings of fact and  
41 conclusions of law.

42 d. The commissioner shall act on the commission's  
43 recommendation, and any appeal of the commissioner's decision  
44 shall be made as provided in Title 18A of the New Jersey Statutes.

45 e. If prior to the issuance of a formal complaint the  
46 commission determines, by majority vote, that the complaint is  
47 frivolous, the commission may impose on the complainant a fine  
48 not to exceed \$500. The standard for determining whether a  
49 complaint is frivolous shall be the same as that provided in  
50 subsection b. of section 1 of P.L.1988, c.46 (C.2A:15-59.1)



1 9. Notwithstanding the provisions of any other law or  
2 regulation to the contrary, the sanctions authorized by this act  
3 may be imposed on any school official pursuant to the procedures  
4 established in section 8 of this act. However, nothing in this act  
5 shall be construed to limit the authority of any board of  
6 education or any appointing authority to process charges or  
7 complaints pursuant to the procedures contained in Titles 18A or  
8 11A of the New Jersey Statutes.

9 10. A school official may request and obtain from the  
10 commission an advisory opinion as to whether any proposed  
11 activity or conduct would in its opinion constitute a violation of  
12 the provisions of this act. Advisory opinions of the commission  
13 shall not be made public, except when the commission, by a vote  
14 of at least six members, directs that the opinion be made public.  
15 Public advisory opinions shall not disclose the name of the school  
16 official unless the commission, in directing that the opinion be  
17 made public, determines that the name should be disclosed.

18 11. The commission shall not process any complaint or issue  
19 any advisory opinion on a matter actually pending in any court of  
20 law or administrative agency of this State.

21 12. The State Board of Education may promulgate regulations  
22 pursuant to the "Administrative Procedures Act," P.L.1968, c.410  
23 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

24 13. This act shall take effect on the ninetieth day after  
25 enactment, except that the appointments authorized by this act  
26 and the administrative preparations for its implementation may  
27 be made prior to the effective date.

28  
29  
30 SPONSOR'S STATEMENT

31  
32 This bill establishes a "School Ethics Commission" and provides  
33 a code of ethics for local school board members and school  
34 administrators.

35 The code of ethics specifically prohibits conduct by the school  
36 official involving matters such as the employment of a family  
37 member, the appropriation of school funds to the benefit of a  
38 school official or the use of school property, the official's  
39 position or confidential information for the pecuniary gain of the  
40 school official or a relative. The bill also prohibits the  
41 acceptance of gifts, favors or services offered for the purpose of  
42 influencing the school official's judgment and the solicitation of  
43 political contributions from other school officials, employees or  
44 vendors.

45 The bill requires each school board member and school  
46 administrator to file a disclosure form with the Commissioner of  
47 Education indicating whether the school official or a relative is a  
48 party to a contract with or is employed by the school district or  
49 whether the school official or a relative has any interest in a  
50 business which is a party to a contract with the school district.

1       The bill also establishes a School Ethics Commission in the  
2 Department of Education. The commission is to consist of nine  
3 members; two of whom shall be school board members; two of  
4 whom shall be school administrators; and five of whom shall be  
5 persons who are not school officials. The commission is  
6 empowered to hear complaints involving violations of the act,  
7 hold hearings, and compel the attendance of witnesses and the  
8 production of documents. If a school board member or school  
9 administrator is found to have violated the act the commission  
10 may recommend to the Commissioner of Education that the  
11 school official be reprimanded, censured, suspended or removed  
12 from office. The commissioner is directed to act on the  
13 commission's recommendation. If the commission finds that any  
14 complaint is frivolous it may impose on the complainant a fine of  
15 up to \$500. In addition, the commission may also issue advisory  
16 opinions as to whether particular conduct would violate the act.

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## EDUCATION

20

21 Provides standards of ethical conduct for members of local school  
22 boards and local school administrators and establishes a School  
23 Ethics Commission.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 4593 and 4024

STATE OF NEW JERSEY

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DATED: MAY 16, 1991

The Assembly Education Committee favorably reports an Assembly Committee Substitute for Assembly Bill Nos. 4593 and 4024.

This substitute establishes a "School Ethics Commission" and provides a code of ethics for local school board members and school administrators.

The standards of ethical conduct provided under the substitute specifically prohibit conduct by school officials involving matters such as the employment of a family member, the appropriation of school funds to the benefit of a school official, or the use of school property, the official's position or confidential information for the pecuniary gain of the school official or a relative. The substitute also prohibits the acceptance of gifts, favors or services offered for the purpose of influencing the school official's judgment and the solicitation of political contributions from other school officials, employees or vendors.

The substitute requires each school board member and school administrator to file a disclosure form with the School Ethics Commission indicating whether the school official or a relative is a party to a contract with or is employed by the school district or whether the school official or a relative has any interest in a business which is a party to a contract with the school district.

The School Ethics Commission is established in the Department of Education. The commission is to consist of nine members; two of whom shall be school board members; two of whom shall be school administrators; and five of whom shall be persons who are not school officials. The commission is empowered to decide complaints involving violations of the act and to issue advisory opinions.

If a school board member or school administrator is found by the commission to have violated the act, the commission may recommend to the Commissioner of Education that the school official be reprimanded, censured, suspended or removed from office. The commissioner is given the final authority concerning any sanction in order to ensure that the penalties imposed for violation of the act are consistent with those imposed for other violations of the school laws. Finally, if the commission finds that any complaint is frivolous it may impose on the complainant a fine of up to \$500.

Representatives of the New Jersey School Business Officials, New Jersey School Boards Association, New Jersey Department of Education and two school board members testified in favor of the substitute. Representatives of the New Jersey Principals and Supervisors Association and the New Jersey Association of School Administrators testified in opposition to the substitute.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 4593 and 4024**

with Assembly committee amendments

STATE OF NEW JERSEY

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DATED: JUNE 13, 1991

Assembly Bill No. 4593/4024 ACS, as amended, establishes a "School Ethics Commission" and provides a code of ethics for local school board members and school administrators.

This code prohibits conduct involving matters such as employment of a family member, the appropriation of school funds to benefit a school official, or the use of 1) school property, 2) the official's position or 3) confidential information for the pecuniary gain of the school official or a relative. Also prohibited is the acceptance of gifts, favors or services offered for the purpose of influencing the school official's judgment and solicitation of political contributions from other school officials, employees or vendors. Each school board member and school administrator is required to file a disclosure form with the School Ethics Commission.

The School Ethics Commission is established in the Department of Education and shall consist of nine members, including two school board members, two school administrators, and five persons who are not school officials. The commission is empowered to decide complaints involving violations of the act and to issue advisory opinions. The commission may employ professional and clerical staff and incur other expenses, and commission members may be reimbursed for their expenses.

The commissioner is given the final authority concerning any sanction in order to ensure that the penalties imposed for violation of the act are consistent with those imposed for other violations of the school laws. Finally, if the commission finds that any complaint is frivolous it may impose on the complainant a fine of up to \$500.

FISCAL IMPACT

A fiscal note has not been prepared on this bill at this time. This bill will increase State costs to the extent the commission employs staff and incurs other expenses, and commission members are reimbursed for their expenses. There may be some State revenue gain to the extent persons are fined for filing frivolous complaints.

COMMITTEE AMENDMENTS:

The committee amendment requires new board members to complete a training program by the School Boards Association regarding necessary skills and knowledge.

SENATE EDUCATION COMMITTEE  
STATEMENT TO  
[FIRST REPRINT]  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, Nos. 4593 and 4024  
with Senate committee amendments  
STATE OF NEW JERSEY

DATED: DECEMBER 12, 1991

The Senate Education Committee favorably reports this bill with committee amendments.

This bill establishes a "School Ethics Commission" and provides a code of ethics for local school board members and school administrators.

The standards of ethical conduct provided under the bill specifically prohibit conduct by school officials involving matters such as engaging in business which is in substantial conflict with the discharge of duties; employment of family members; official acts in which financial or personal involvement may impair judgment; employment or service which may impair judgment; solicitation or acceptance of gifts, loans or political contributions given for the purpose of influence; use of confidential information for financial gain; and representing a person in connection with any cause pending before the school district.

Each school board member and school administrator would be required to file annually two disclosure forms. The first form requires information indicating whether the school official or a relative is a party to a contract with, or is employed by, the school district or whether the school official or a relative has any interest in a business which is a party to a contract with the school district. The second form is a financial disclosure statement which requires information indicating such items as sources of income exceeding \$2,000, sources of fees, honorariums and gifts having an aggregate amount exceeding \$250 from any single source, and the names of business organizations in which an interest is held.

The School Ethics Commission is established in the Department of Education. It would consist of nine members appointed by the Governor, no more than five of whom will be from the same political party: two school board members; two school administrators; and five persons who are not school officials. The commission is empowered to decide complaints involving violations of the act and to issue advisory opinions.

If a school board member or school administrator is found by the commission to have violated the act, the commission may recommend to the Commissioner of Education that the school official be reprimanded, censured, suspended or removed from office. The commissioner is given the final authority concerning any sanction in order to ensure that the penalties imposed for violation

of the act are consistent with those imposed for other violations of the school laws. If the commission finds that any complaint is frivolous it may impose on the complainant a fine of up to \$500.

Finally, each newly elected or appointed board member is required to complete during the first term a training program to be prepared and offered by the New Jersey School Boards Association regarding the skills and knowledge necessary to serve as a board member.

The committee adopted amendments to: 1) add the requirement of a financial disclosure statement; 2) replace the standards of ethical conduct in the bill with the standards of ethical conduct in S-3536; and 3) provide for the bipartisan appointment of commission members.



# OFFICE OF THE GOVERNOR

## NEWS RELEASE

CN-001  
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Release: Thursday  
January 16, 1992

### GOVERNOR FLORIO SIGNS LAW IMPOSING GREATER ACCOUNTABILITY FOR SCHOOL DISTRICTS

School board officials and administrators are the latest public officials in New Jersey to come under tough ethical standards under a law signed today by Governor Jim Florio, who called for the legislation to ensure greater accountability of taxpayer dollars.

"We're here to take an important step that will help safeguard three of New Jersey's most precious resources: our tax dollars, the trust of our people and the future of our children," said Governor Florio. "The overwhelming majority of our school officials want to do good work, to benefit their communities and to help children. But unfortunately in education – as in any other field – not everyone is motivated by such high standards. "

"This bill gives us the tools we need to weed out the few people who would use our schools for personal gain. It's another part of our plan to make government more responsive by making it more accountable," he said. "Our new school ethics bill sets fair, workable standards that will help guide school officials. The standards, really, are common sense."

The new law sets standards of ethical conduct which specifically prohibit conduct by school officials involving matters such as:

- engaging in a business in substantial conflict with the official's discharge of duties
- official acts in which financial or personal involvement may impair judgment
- solicitation or acceptance of gifts
- use of confidential information for private gain
- representing a person in connection with any cause pending before the school district

The school ethic law is based on the same ethics standards set for local elected officials. These standards are already incorporated on the state level in the state employee ethics code.

The law, which applies to local school board members and school administrators, requires officials to annually file two disclosure forms. The first form requires information indicating whether a school official or a relative has any outside ties, such as a business, which is involved with the school district. The second form is a financial disclosure statement which requires the official to list sources of income exceeding \$2,000, sources of fees, honoraria and gifts exceeding \$250 from any single source and the names of business organizations in which an interest is held. The form does not require salary disclosure.

School administrators are defined as superintendents, principals and others who are responsible for making recommendations and decisions regarding hiring or the purchase of any property or services by the local school district.

The law also establishes a nine-member "School Ethics Commission" in the Education Department which would hear complaints involving violations of the law and issue advisory opinions. Members would include two school board members, two school administrators and five non-school officials. School officials found to have violated the law could face reprimand, censure, suspension or removal from office.

"Public trust is fragile. It's also essential for our government and our schools to work. We cannot -- we will not -- accept unethical behavior from school board members and school administrators. Even the appearance of improper behavior chips away at the vital trust between school boards and their communities -- the parents, business people and all the other people who have a stake in our schools," he said.

Since Governor Florio took office, the state has enacted sweeping ethics reforms that affect the vast majority of elected and appointed officials who hold positions where there is potential for conflict of interest. These reforms include:

- broader financial disclosure for state officials
- strict code of ethical standards for local officials
- tougher disclosure requirements for lobbyists
- stiffer fines for violations by legislators and their staffs

The school ethics bill was sponsored by former Assemblyman Anthony Cimino and Assemblyman William Pascrell.

"In New Jersey, our intolerance for unethical behavior by school officials is clear. We've got the toughest state takeover law in the country and we're not afraid to use it. But it's rare that we need such a big cannon. More often, what we need is a scalpel. That's what this law provides: a precise, effective fair way to correct problems before they can harm our children or people's confidence," Governor Florio said.

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