

18A:12-23

**LEGISLATIVE HISTORY CHECKLIST**  
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(NJ School Boards Association--  
employees--require compliance with  
school ethics law)

**NJSA:** 18A:12-23

**LAWS OF:** 1995 **CHAPTER:** 14

**BILL NO:** A1208

**SPONSOR(S):** Mikulak and Crecco

**DATE INTRODUCED:** February 7, 1994

**COMMITTEE:** **ASSEMBLY:** Education

**SENATE:** ---

**AMENDED DURING PASSAGE:** Yes Amendments during passage  
First reprint enacted denoted by superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** September 26, 1994

**SENATE:** October 20, 1994

**DATE OF APPROVAL:** January 22, 1995

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** Yes

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

~BG:pp

P.L.1995, CHAPTER 14, approved January 22, 1995  
1994 Assembly No. 1208 (First Reprint)

1 AN ACT concerning school ethics and amending P.L.1991, c.393.

2

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

5 1. Section 3 of P.L.1991, c.393 (C.18A:12-23) is amended to  
6 read as follows:

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

9 "Administrator" means any officer, other than a board  
10 member, or employee of a local school district who (i) holds a  
11 position which requires a certificate that authorizes the holder to  
12 serve as school administrator, principal, or school business  
13 administrator; or (ii) holds a position which does not require that  
14 the person hold any type of certificate but is responsible for  
15 making recommendations regarding hiring or the purchase or  
16 acquisition of any property or services by the local school  
17 district; or (iii) holds a position which requires a certificate that  
18 authorizes the holder to serve as supervisor and who is  
19 responsible for making recommendations regarding hiring or the  
20 purchase or acquisition of any property or services by the local  
21 school district;

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

25 "Business" means any corporation, partnership, firm,  
26 enterprise, franchise, association, trust, sole proprietorship,  
27 union, political organization, or other legal entity but shall not  
28 include a local school district or any other public entity;

29 "Commission" means the School Ethics Commission established  
30 pursuant to section 7 of this act;

31 "Commissioner" means the Commissioner of Education;

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

35 "Local school district" means any local or regional school  
36 district established pursuant to chapter 8 or chapter 13 of Title  
37 18A of the New Jersey Statutes and any jointure commission,  
38 county vocational school, county special services district,  
39 educational services commission, educational research and  
40 demonstration center, environmental education center, and  
41 educational information and resource center;

42 "Member of immediate family" means the spouse or dependent  
43 child of a school official residing in the same household;

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 amendments adopted in accordance with Governor's  
recommendations December 5, 1994.

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

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

7 "School official" means a board member, an employee or  
8 officer of the New Jersey School Boards Association, but not  
9 including any member of the secretarial, clerical or maintenance  
10 staff of the association, or an administrator; and

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

13 (cf: P.L.1991, c.393, s.3.)

14 2. Section 4 of P.L.1991, c.393 (C.18A:12-24) is amended to  
15 read as follows:

16 4. a. No school official or member of his immediate family  
17 shall have an interest in a business organization or engage in any  
18 business, transaction, or professional activity, which is in  
19 substantial conflict with the proper discharge of his duties in the  
20 public interest;

21 b. No school official shall use or attempt to use his official  
22 position to secure unwarranted privileges, advantages or  
23 employment for himself, members of his immediate family or  
24 others;

25 c. No school official shall act in his official capacity in any  
26 matter where he, a member of his immediate family, or a  
27 business organization in which he has an interest, has a direct or  
28 indirect financial or personal involvement that might reasonably  
29 be expected to impair his objectivity or independence of  
30 judgment;

31 d. No school official shall undertake any employment or  
32 service, whether compensated or not, which might reasonably be  
33 expected to prejudice his independence of judgment in the  
34 exercise of his official duties;

35 e. No school official, or member of his immediate family, or  
36 business organization in which he has an interest, shall solicit or  
37 accept any gift, favor, loan, political contribution, service,  
38 promise of future employment, or other thing of value based upon  
39 an understanding that the gift, favor, loan, contribution, service,  
40 promise, or other thing of value was given or offered for the  
41 purpose of influencing him, directly or indirectly, in the discharge  
42 of his official duties. This provision shall not apply to the  
43 solicitation or acceptance of contributions to the campaign of an  
44 announced candidate for elective public office, if the school  
45 official has no knowledge or reason to believe that the campaign  
46 contribution, if accepted, was given with the intent to influence  
47 the school official in the discharge of his official duties;

48 f. No school official shall use, or allow to be used, his public  
49 office or employment, or any information, not generally available  
50 to the members of the public, which he receives or acquires in  
51 the course of and by reason of his office or employment, for the  
52 purpose of securing financial gain for himself, any member of his  
53 immediate family, or any business organization with which he is  
54 associated;

1 g. No school official or business organization in which he has  
2 an interest shall represent any person or party other than the  
3 school board or school district in connection with any cause,  
4 proceeding, application or other matter pending before the school  
5 district in which he serves or in any proceeding involving the  
6 school district in which he serves or, for officers or employees of  
7 the New Jersey School Boards Association, any school district.

8 This provision shall not be deemed to prohibit representation  
9 within the context of official labor union or similar  
10 representational responsibilities;

11 h. No school official shall be deemed in conflict with these  
12 provisions if, by reason of his participation in any matter required  
13 to be voted upon, no material or monetary gain accrues to him as  
14 a member of any business, profession, occupation or group, to any  
15 greater extent than any gain could reasonably be expected to  
16 accrue to any other member of that business, profession,  
17 occupation or group;

18 i. No elected member shall be prohibited from making an  
19 inquiry for information on behalf of a constituent, if no fee,  
20 reward or other thing of value is promised to, given to or  
21 accepted by the member or a member of his immediate family,  
22 whether directly or indirectly, in return therefor; <sup>1</sup>[and]<sup>1</sup>

23 j. Nothing shall prohibit any school official, or members of his  
24 immediate family, from representing himself, or themselves, in  
25 negotiations or proceedings concerning his, or their, own  
26 interests<sup>1</sup>; and

27 k. Employees of the New Jersey School Boards Association  
28 shall not be precluded from providing assistance, in the normal  
29 course of their duties, to boards of education in the negotiation  
30 of a collective bargaining agreement regardless of whether a  
31 member of their immediate family is a member of, or covered by,  
32 a collective bargaining agreement negotiated by a Statewide  
33 union with which a board of education is negotiating<sup>1</sup>.

34 (cf: P.L.1991, c.393, s.4)

35 3. Section 5 of P.L.1991, c.393 (C.18A:12-25) is amended to  
36 read as follows:

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

40 (1) whether any relative of the school official or any other  
41 person related to the school official by marriage is employed by  
42 the school district with which the school official holds office or  
43 employment or, for officers or employees of the New Jersey  
44 School Boards Association, any school district , and, if so, the  
45 name and position of each such relative;

46 (2) whether the school official or a relative is a party to a  
47 contract with the school district with which the school official  
48 holds office or employment or, for officers or employees of the  
49 New Jersey School Boards Association, any school district , and,  
50 if so, the nature of the contract; and

51 (3) whether the school official or a relative is employed by,  
52 receives compensation from, or has an interest in any business  
53 which is a party to a contract with the school district with which  
54 the school official holds office or employment or, for officers or

- 1 employees of the New Jersey School Boards Association, any  
2 school district, and, if so, the name of each such business.
- 3 b. Each statement shall be signed by the school official filing  
4 it, and the school official's signature shall constitute a  
5 representation of the accuracy of the contents of the statement.
- 6 c. A school official who fails to file a statement or who files a  
7 statement containing information which the school official knows  
8 to be false shall be subject to reprimand, censure, suspension, or  
9 removal [by the commissioner] pursuant to the procedures  
10 established in section 9 of [this act] P.L.1991, c.393  
11 (C.18A:12-29). Nothing in this subsection shall be construed to  
12 prevent or limit criminal prosecution.
- 13 d. All statements filed pursuant to this section shall be  
14 retained by the commission as public records.  
15 (cf: P.L.1991, c.393, s.5)
- 16 4. Section 9 of P.L.1991, c.393 (C.18A:12-29) is amended to  
17 read as follows:
- 18 9. a. Any person, including a member of the commission, may  
19 file a complaint alleging a violation of the provisions of this act  
20 by submitting it, on a form prescribed by the commission, to the  
21 commission. No complaint shall be accepted by the commission  
22 unless it has been signed under oath by the complainant. If a  
23 member of the commission submits the complaint, the member  
24 shall not participate in any subsequent proceedings on that  
25 complaint in the capacity of a commission member. If a  
26 commission member serves on the school board of, or is employed  
27 by, the school district which employs or on whose board the  
28 school official named in the complaint serves, the commission  
29 member shall not participate in any subsequent proceedings on  
30 that complaint.
- 31 b. Upon receipt of a complaint, the commission shall serve a  
32 copy of the complaint on each school official named therein and  
33 shall provide each named school official with the opportunity to  
34 submit a written statement under oath. The commission shall  
35 thereafter decide by majority vote whether probable cause exists  
36 to credit the allegations in the complaint. If the commission  
37 decides that probable cause does not exist, it shall dismiss the  
38 complaint and shall so notify the complainant and any school  
39 official named in the complaint. The dismissal shall constitute  
40 final agency action. If the commission determines that probable  
41 cause exists, it shall refer the matter to the Office of  
42 Administrative Law for a hearing to be conducted in accordance  
43 with the "Administrative Procedure Act," P.L.1988, c.410  
44 (C.52:14B-1 et seq.), and shall so notify the complainant and each  
45 school official named in the complaint.
- 46 c. Upon completion of the hearing, the commission, by  
47 majority vote, shall determine whether the conduct complained  
48 of constitutes a violation of this act or whether the complaint  
49 should be dismissed. If a violation is found, the commission shall,  
50 by majority vote, recommend to the commissioner the reprimand,  
51 censure, suspension, or removal of the school official found to  
52 have violated this act. The commission shall state in writing its  
53 findings of fact and conclusions of law. The commissioner shall  
54 then act on the commission's recommendation regarding the  
55 sanction.

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

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

11 f. Notwithstanding the provisions of subsections c. and d. of  
12 this section, the commission shall be authorized to determine and  
13 impose the appropriate sanction including reprimand, censure,  
14 suspension or removal of any school official found to have  
15 violated this act who is an officer or employee of the New Jersey  
16 School Boards Association. Any action of the commission  
17 regarding a violation of P.L.1991, c.393 (C.18A:12-21 et seq.) or  
18 the sanction to be imposed in the event that the school official  
19 involved is an officer or employee of the New Jersey School  
20 Boards Association shall be considered final agency action and an  
21 appeal of that action shall be directly to the Appellate Division  
22 of the Superior Court.

23 (cf: P.L.1991, c.393, s.9)

24 5. This act shall take effect immediately.  
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27  
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29 Requires employees of New Jersey School Boards Association to  
30 comply with provisions of school ethics act.

1 standard for determining whether a complaint is frivolous shall be  
 2 the same as that provided in subsection b. of section 1 of  
 3 P.L.1988, c.46 (C.2A:15-59.1)

4 f. Notwithstanding the provisions of subsections c. and d. of  
 5 this section, the commission shall be authorized to determine and  
 6 impose the appropriate sanction including reprimand, censure,  
 7 suspension or removal of any school official found to have  
 8 violated this act who is an officer or employee of the New Jersey  
 9 School Boards Association. Any action of the commission  
 10 regarding a violation of P.L.1991, c.393 (C.18A:12-21 et seq.) or  
 11 the sanction to be imposed in the event that the school official  
 12 involved is an officer or employee of the New Jersey School  
 13 Boards Association shall be considered final agency action and an  
 14 appeal of that action shall be directly to the Appellate Division  
 15 of the Superior Court.

16 (cf: P.L.1991, c.393, s.9)

17 [4.] 5. This act shall take effect immediately.

18  
 19 *Sponsors*

20 STATEMENT

21  
 22 This bill provides that officers and employees of the New  
 23 Jersey School Boards Association, other than members of the  
 24 secretarial, clerical or maintenance staff, will be subject to the  
 25 provisions of the "School Ethics Act."

26 The bill amends the "School Ethics Act" to prohibit certain  
 27 conduct by employees or officers of the New Jersey School  
 28 Boards Association involving matters such as engaging in business  
 29 which is in substantial conflict with the discharge of duties;  
 30 employment of family members; official acts in which financial  
 31 or personal involvement may impair judgment; employment or  
 32 service which may impair judgment; solicitation or acceptance of  
 33 gifts, loans or political contributions given for the purpose of  
 34 influence; use of confidential information for financial gain; and  
 35 representing a person in connection with any cause pending  
 36 before a school district.

37 Employees or officers of the association will also be required  
 38 to file annually two disclosure forms. The first form requires  
 39 information indicating whether the school official or a relative is  
 40 a party to a contract with, or is employed by, any school district  
 41 or whether the school official or a relative has any interest in a  
 42 business which is a party to a contract with any school district.  
 43 The second form is a financial disclosure statement which  
 44 requires information indicating such items as sources of income  
 45 exceeding \$2,000, sources of fees, honorariums and gifts having  
 46 an aggregate amount exceeding \$250 from any single source, and  
 47 the names of business organizations in which an interest is held.

48 A School Ethics Commission established in the Department of  
 49 Education is charged with administering the provisions of the  
 50 "School Ethics Act."

51  
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 54 

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 55 Requires employees of New Jersey School Boards Association to  
 comply with provisions of school ethics act.

**ASSEMBLY EDUCATION COMMITTEE**

**STATEMENT TO**

**ASSEMBLY, No. 1208**

**STATE OF NEW JERSEY**

**DATED: JUNE 13, 1994**

The Assembly Education Committee favorably reports Assembly Bill No. 1208.

This bill provides that officers and employees of the New Jersey School Boards Association, other than members of the secretarial, clerical or maintenance staff, shall be subject to the provisions of the "School Ethics Act," P.L.1991, c.393 (C.18A:12-21 et seq.). Currently, the provisions of the "School Ethics Act" apply to school district administrators and school board members.

The bill amends the "School Ethics Act" to prohibit certain conduct by employees or officers of the New Jersey School Boards Association 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 a school district.

Under the bill's provisions, employees or officers of the association will also 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, any school district or whether the school official or a relative has any interest in a business which is a party to a contract with any 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.

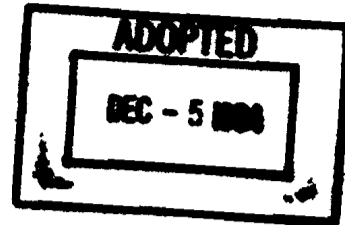
A School Ethics Commission established in the Department of Education is charged with administering the provisions of the "School Ethics Act."

This bill was prefiled for introduction in the 1994-95 legislative session. As reported, the bill includes the changes required by technical review which has been performed.



December 5, 1994

ASSEMBLY BILL NO. 1208



To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 1208 with my recommendations for reconsideration.

This bill provides that officers and employees of the New Jersey School Boards Association (the Association) are subject to the standards of ethical conduct and financial disclosure set forth in the School Ethics Act (the Act).

I fully support the objectives of this bill. However, I have been advised that the manner in which officers and employees of the Association are included within the purview of the School Ethics Act may preclude certain employees of the Association from providing assistance to local school boards on collective bargaining negotiations. One of the principal functions of the Association is to provide such assistance.

The sponsors of this bill have indicated that this limitation on the ability of Association employees is unintended. Therefore, I recommend that the bill be modified to allow an employee of the New Jersey School Boards Association to provide assistance to boards of education in the negotiation of collective bargaining agreements regardless of whether or not the employee has an immediate family member who is represented by the same Statewide union as the boards are negotiating with.

The Association personnel can be distinguished from the other categories of persons to whom the School Ethics Act applies. They are much further removed from the actual decision-making in the district than administrators or school board members. The unique role of the Association, which provides assistance to all school boards, would appear to support a different approach for the Association.

STATE OF NEW JERSEY  
Executive Department

2

For these reasons, I herewith return Assembly Bill No. 1208 and recommend that it be amended as follows:

Page 3, Section 2, Line 22:

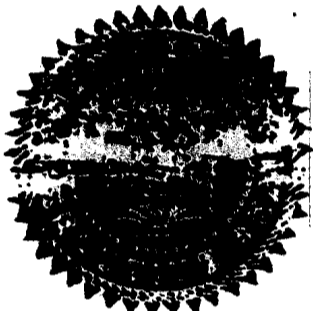
Delete "and"

Page 3, Section 2, Line 25:

Delete "." and insert "; and"

Page 3, Section 2, Line 26:

Insert "k. Employees of the New Jersey School Boards Association shall not be precluded from providing assistance, in the normal course of their duties, to boards of education in the negotiation of a collective bargaining agreement regardless of whether a member of their immediate family is a member of, or covered by, a collective bargaining agreement negotiated by a Statewide union with which a board of education is negotiating."



Respectfully,

Handwritten signature of Christine Todd Whitman in black ink.

Christine Todd Whitman  
Governor

Attest:

Handwritten signature of Peter Verniero in black ink.

Peter Verniero  
Chief Counsel to the Governor