

Ethics for School Officials



Presented by:
NJSBA Field Services Representatives



Disclaimer

The content discussed in this presentation is for informational purposes only and not for the purpose of providing legal advice. The application and impact of laws can vary widely based on the specific facts involved. No action should be taken in reliance on information discussed in this presentation, and the NJSBA disclaims all liability for actions or not taken based on such content to the fullest extent permitted by law.

You should contact your board/school attorney to obtain advice with respect to any issue or problem.

❖ *Important to note: Final regulations under Chapter 28 could be different than what is in the proposed language, and we are not yet sure what the effective date for the 90-day training requirement for NBMO training will be.*



Ethics/Accountability

“Public service is about serving all the people, including the ones who are not like you.”

Constance Wu

Ethics/ Accountability



As a school official, you have the honor of serving the interests of the public.

In carrying out that duty, how do we hold ourselves accountable:

- to the public that we serve?
- differently than a volunteer?
- to a standard of ethical conduct that sets the minimum expectations?



School Ethics Act

N.J.S.A. 18A 12-21 (1991)

It is essential that the conduct of members of local boards of education and local administrators hold the **respect** and **confidence** of the people.

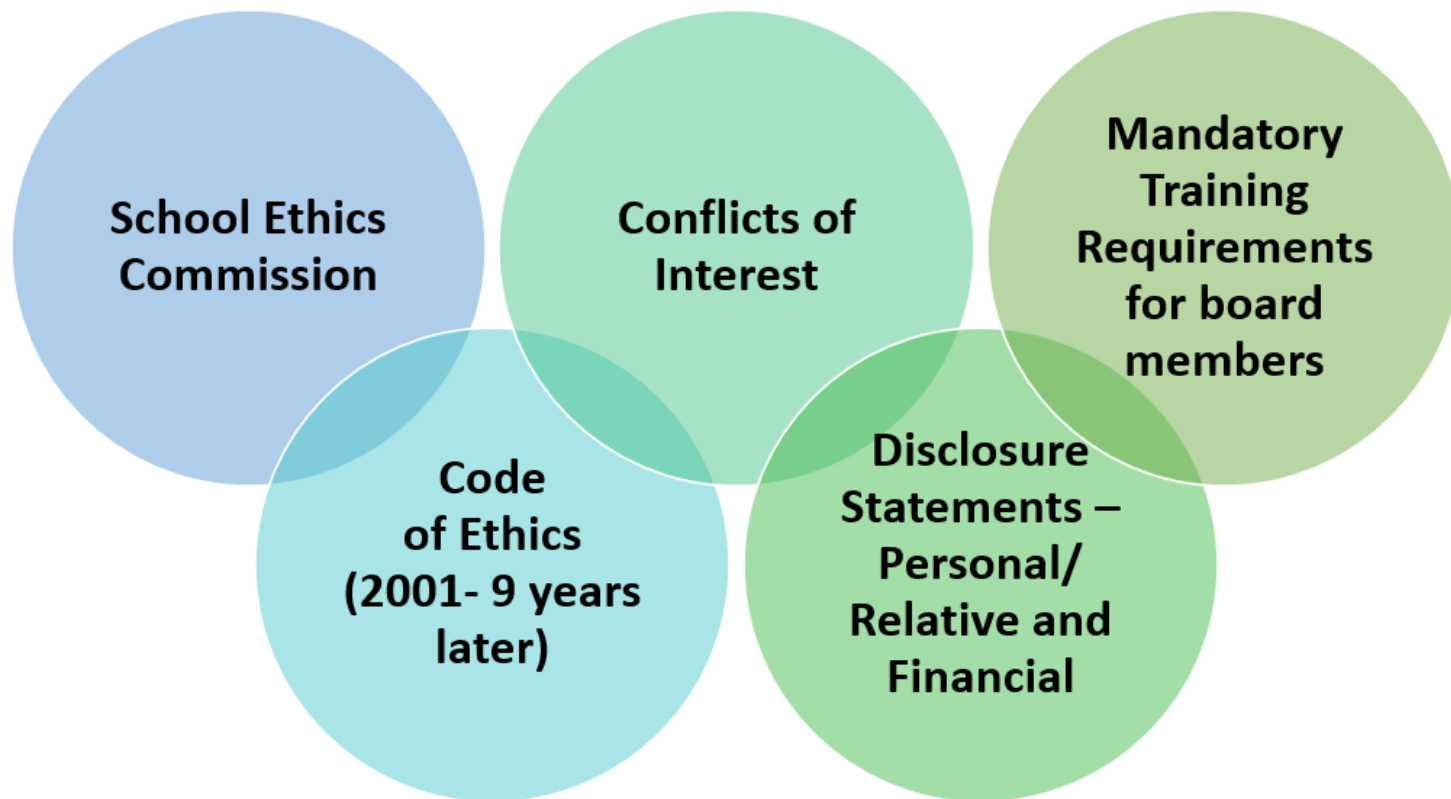


These board members and administrators must **avoid conduct** which is in **violation of their public trust** or which creates a **justifiable impression** among the public that such trust is being violated.



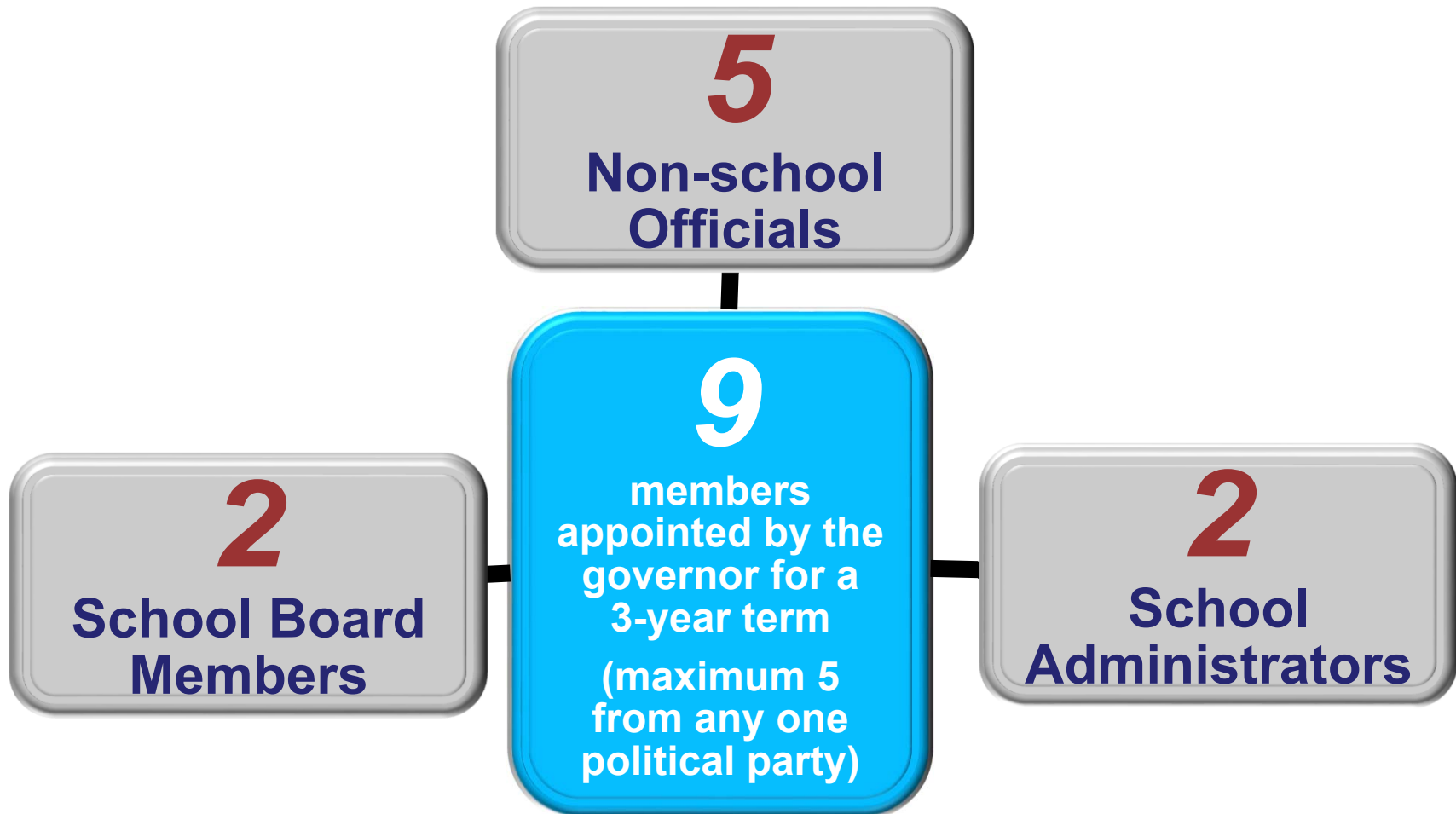
School Ethics Act

The School Ethics Act Established:



Who Enforces the Act?

The School Ethics Commission is the body charged with enforcing the act.
N.J.S.A. 18A:12-27 (a)



SEC Jurisdiction

Advisory Opinions N.J.S.A. 18A:12-31

Only a **school official** may request an **advisory opinion** to determine if **any proposed activity or conduct by** a school official in same district would constitute a violation of the Act.

**Can be made public.
Needs 6 Votes SEC.**

Ethics Complaints

Acts upon complaints filed by **anyone** alleging a **violation of the School Ethics Act or Code of Ethics** took place.

**Per SEC,
In any given year, the
yearly average:**

- **85 Ethics complaints filed**
- **35 Advisory Opinions requested**



Filing Considerations

SEC Considerations



In considering many of the filings that are dismissed, the SEC:

- Shall review the facts in the light most favorable to the Complainant. The question before the SEC is whether the Complainant has pled sufficient facts, which if true, could support a finding that the named respondent was in violation.
- Reminds all members of the public that the Commission is not a medium through which vendettas, quarrels, grudges, and sour grapes are to be filed. Complaints designed solely to “settle the score” unnecessarily delay the processing of other complaints which concern behavior and conduct that may actually violate the Act.



What Training is Mandatory?

N.J.S.A. 18A:12-33

By end of: 1 st 90 Days	Governance 1 (New Board Member Orientation) <ul style="list-style-type: none">• Basic knowledge/skills, NJQSAC, HIB, CSA Evaluation, OPMA, Code of Ethics	NJSBA provides this training through multiple options: <ul style="list-style-type: none">• In-person• Live-virtual• Self-paced online	Chapter 28 Regulations - Adopted 2/2023 change for new Board members only – training completed by first 90 days
Year 2	Governance 2 <ul style="list-style-type: none">• Finance/Labor		
Year 3	Governance 3 <ul style="list-style-type: none">• Student Achievement		
Year following reelection or reappointment	Governance 4 <ul style="list-style-type: none">• Legal Updates		



Disclosure Statements

Personal/Relative and Financial Disclosure Statements

New
School
Officials

Must file disclosure statements within 30 days of start of employment or service



Returning
School
Officials

April 30 deadline to file disclosure statements



What are the Penalties?

Violation of the Act

SEC may recommend to the Commissioner:

Reprimand

Censure

Suspension

Removal

Updated definitions (Chapter 28 regulations)

Rebuke by Commissioner that conduct violated standards but does not result in a formal resolution.

Formal disapproval by Commissioner publicized by adoption of resolution.

Barred from engaging in any activity/ matter for a designated period of time.

Immediate termination from Board membership or employment (if administrator).

- SEC makes recommendation to Commissioner for final agency decision.
- Appeals are heard by the Appellate Division.



Code of Ethics for School Board Members Only

N.J.S.A. 18A:12-24.1, N.J.A.C. 6A:28-6.4(a)(1)

a.

I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures.

Standards

Factual evidence shall include a copy of a final decision from any court of law or administrative agency of this State demonstrating that the respondent(s) failed to enforce all laws, rules and regulations of the State Board of Education, and/or court orders pertaining to schools or that the respondent brought about changes through illegal or unethical procedures.



Code of Ethics (continued)

b.

I will make decisions in terms of the educational welfare of children and will seek to develop and maintain public schools that meet the individual needs of all children regardless of their ability, race, creed, sex, or social standing.

Standards

A decision was willfully made contrary to the educational welfare of children, or deliberate action was taken to obstruct the programs and policies designed to meet the individual needs of all children, regardless of their ability, race, color, creed or social standing.



Code of Ethics (continued)



I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

Standards

Board action was taken to effectuate policies and plans without consulting those affected by such policies and plans, or action was taken that was unrelated to the respondent's duty to: i. Develop the general rules and principles that guide the management of the school district or charter school; ii. Formulate the programs and methods to effectuate the goals of the school district or charter school; or iii. Ascertain the value or liability of a policy.



Code of Ethics (continued)

d.

I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.

Standards

A direct order was given to school personnel or there was direct involvement in activities or functions that are the responsibility of school personnel or the day-to-day administration of the school district or charter school.



Code of Ethics (continued)

e.

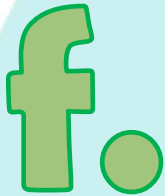
I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

Standards

Personal promises were made, or action taken beyond the scope of his or her duties such that, by its nature, had the potential to compromise the Board.



Code of Ethics (continued)



I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

Standards

Action was taken on behalf of, or at the request of, a special interest group or persons organized and voluntarily united in opinion and who adhere to a particular political party or cause; or the schools were used in order to acquire some benefit for the respondent(s), a member of his or her immediate family or a friend.



Code of Ethics (continued)

g.

I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

Standards

Took action to make public, reveal or disclose information that was not public under any laws, regulations or court orders of this State, or information that was otherwise confidential in accordance with board policies, procedures or practices. Inaccuracy of information and evidence that establishes that the inaccuracy was other than reasonable mistake or personal opinion or was not attributable to developing circumstances must be substantiated.



Code of Ethics (continued)

h.

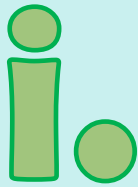
I will vote to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer.

Standards

A personnel matter was acted upon without a recommendation of the chief administrative officer.



Code of Ethics (continued)



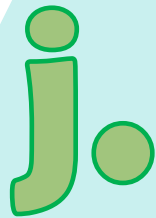
I will support and protect school personnel in proper performance of their duties.

Standards

Deliberate action was taken which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties.



Code of Ethics (continued)



I will refer all complaints to the chief administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

Standards

Acted on or attempted to resolve a complaint, or conducted an investigation or inquiry related to a complaint: i. Prior to referral to the chief administrative officer; or ii. At a time or place other than a public meeting and prior to the failure of an administrative solution.



2022 Commissioner/SEC Decisions

2022 Commissioner/ SEC Decisions

Related to the Code of Ethics

(C29-21) During a superintendent search, a Board member was asked at a PTA meeting: if the Board's first choice declined the offer, would the Board consider the Acting Superintendent. Board member said it is unlikely since Asst. Supt. was not invited back for a 2nd interview. Also told PTA that it might be difficult for the Acting Superintendent to hold staff members feet to the fire.

Board member agreed that confidential information was provided to the public that had the potential to compromise the superintendent search. Violation of (g) and (e).

*Board member also agreed that made public evaluative statements of the Acting Superintendent's performance. Violation of (i). Voluntary agreement to violations/settlement. **Penalty of Reprimand. Awaiting final commissioner decision***

(C67-20) Board member emailed coach and superintendent, demanding a full explanation why some football players knelt during the National Anthem. The superintendent clarified it is a player's right and not a conduct violation. The Board member continued to press - "If you think for one minute I am going to let this disrespectful stunt go, you are wrong. As an elected official, you are disrespecting me and forgetting who is your boss." *The demanded action and responses to inquiries signed as a board member is a violation of (d). Through demands, attempted to conduct an investigation before any administrative action was taken – violation of (j). **Penalty: Censure. Final commissioner decision***



SEC Advisory Opinion A12-22

Would an individual Board member violate the School Ethics Act if they voted affirmatively to refuse to implement the NJSLS for Comprehensive Health & PE, and/or voted to change from “opt-out” to “opt-in”?

SEC Response:

Districts board of education are required to ensure that the curriculum and instruction provided to students aligns with the NJSLS. Members are required to abide by the Code of Ethics that includes, “I will uphold and enforce all laws, rules, and regulations of the State Board of Education and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures.” Failure to comply with the NJSLS could lead to a decision that supports a violation for an individual board member or the Board.



Recent SEC Decision

SEC 67-23

Board member's walk-on motion to eliminate the Columbus Day holiday from the school calendar resulted in a "huge public outcry" with "tremendous backlash." This member attended a meeting with 2 community members to discuss this Board action. This meeting was considered outside of the scope of duty as a Board member and had the potential to compromise the Board. A Board member is required to "refer all complaints to the District's administration, and is prohibited from resolving, or attempt to resolve, a complaint at a time other than at a public Board meeting, and prior to the failure of an administrative solution. The member undermined the administration's authority (and ability) to potentially resolve or address the concerns, and this, in turn, imposes an unnecessary strain and hardship on the relationship between the administration and the Board. Also, given the public outcry, it was incumbent on the Board, not the individual member, to publicly discuss the rationale for its decision-making.

Violated N.J.S.A. 18A:12-24.1(e) – penalty Reprimand.



Recent SEC Decision

SEC 20-20

The cost efficiency of a recommendation to replace the 1:1 student Apple devices with new Apple devices was met with skepticism by a board member. The member emailed BAs from other districts about their experience with Chromebooks and asked a Chromebook vendor for a price quote on behalf of the Board. The Board was unaware of this member's actions. The member's rationale was that several requests to administration for information went unanswered, so she did her own research.

Violated N.J.S.A. 18A:12-24.1 (c) & (e) – penalty Censure.



What is a Conflict of Interest?

N.J.S.A. 18A12-24

	Recuse yourself if there is a benefit to you (school official) or your immediate family due to:
a.	Business interest or professional activity in conflict.
b.	Use of position to secure unwarranted privileges, advantages or employment. Extends to “others” so may go beyond definition of immediate family.
c.	Financial involvement that may impair objectivity
d.	Service or employment that may prejudice independent judgement
e.	Gift, favor, etc. offered with intent to influence
f.	Financial gain
	Other Considerations:
g.	Shall not represent any person/party other than Board/district in matter before the Board.
h.	Not a conflict if not accruing a greater gain than any others.
i,j,k	(See N.J.S.A. 18A:12-24)



Relationship Definitions

Immediate Family Member

Spouse, civil union partner, domestic partner, or dependent child residing in the same household

Dependent Child

Any child claimed as a dependent on federal or state tax returns

Relative

Spouse, civil union/domestic partner or parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son/daughter-in-law, stepparent, stepchild, stepbrother/sister half-brother/sister of the individual or the individual's spouse, civil union/domestic partner, by blood, marriage, or adoption. **(Nepotism law)**

Chapter 28
Regulations
- New
Definitions

Relationships that may cause a conflict



FAMILIAL RELATIONSHIP	CONSIDERED A “RELATIVE” FOR PURPOSES OF CONTRACT NEGOTIATIONS WITH THE LOCAL EDUCATION ASSOCIATION AND MATTERS RELATED TO THE EMPLOYMENT OF THE SUPERINTENDENT
School official’s spouse/partner	Yes
School official’s parents	Yes
School official’s children	Yes
School official’s brother (sister)	Yes
School official’s brother’s (sister’s) spouse/partner	<i>No</i>
School official’s aunt (uncle):	Yes
School official’s aunt’s (uncle’s) spouse/partner	<i>No</i>
School official’s nephew (niece)	Yes
School official’s nephew’s (niece’s) spouse/partner	<i>No</i>
School official’s grandparents	Yes
School official’s grandchildren	Yes
School official’s grandchildren’s spouses/partners	<i>No</i>
School official’s son-in-law (daughter-in-law)	Yes
School official’s step-parent	Yes
School official’s step-child	Yes
School official’s step-child’s spouse/partner	<i>No</i>
School official’s step-sibling	Yes
School official’s step-sibling’s spouse/partner	<i>No</i>
School official’s half-sibling	Yes
School official’s half-sibling’s spouse/partner	<i>No</i>
School official’s spouse’s/partner’s parents	Yes
School official’s spouse’s/partner’s children	Yes
School official’s spouse’s/partner’s brother (sister)	Yes

SEC Advisory Opinion A11-23 <https://www.nj.gov/education/legal/ethics/advisory/cat5/A11-23%20-%20PUBLIC.pdf>



Hiring/Personnel

May not hire a relative of a board member or chief school administrator.

(May be exceptions)

If the relative already works in the district:

An administrator may not exercise direct or indirect authority over a relative of the administrator.

A board member may not take part in employment matters concerning the CSA or supervisors in the chain of command between the relative and the CSA.

A board member may not take part in the search, selection, or vote to hire a new CSA, and post-hire evaluations and contract discussions.

NO

**- Discussion
- Vote
taking part in:**



Collective Bargaining

A24-17

Relationship to Board Member	Current Member of a Statewide Public Teachers' Union	Participate in Negotiations Yes or No	Vote to Ratify the Contract Yes or No
<ul style="list-style-type: none"> Spouse Dependent Child Child (not dependent) Relative 	Works in the District	No	No
<ul style="list-style-type: none"> Self Spouse Dependent Child 	Works Out-of-District	No	Yes* **
<ul style="list-style-type: none"> Child (not dependent) Relative 	Works Out-of-District	Yes*	Yes*

* Absent another conflict

** After Memorandum of Agreement, salary guides, total compensation package attained.



Collective Bargaining

Other possible conflicts:

Not in the unit, but
terms of employment
linked to unit.

Supervised by
employees in the unit

Immediate family
member/relative has
heightened union
involvement.

A10-18: Endorsement of a candidate by a local or statewide union does not create a per se future conflict unless a financial contribution is given and is intended to influence the member.



Volunteering in School

A07-00, A32-14, A10-15, A17-15, A15-18

Serving on the Board does not prevent volunteerism in the schools, but consideration needs to be given to:

Degree of involvement

with staff and students
(Frequency/Level of Interaction)

Degree of authority

to give and receive directions/ orders to
staff and students

What is the degree of:

- Giving directions or orders to staff or students
- Taking orders from staff

Will I be in the building often?
("enmeshed in the building")

Will I be handling the school district's money?

Will I be the lead/regular volunteer or coach for a school district club, activity or sport?

- Advise superintendent you will be performing this work.
- Refrain from any related Board discussion or vote.
- Always be cognizant of the obligations of the Act.



Interview Committees

Board member involvement in interviews for positions other than that of Superintendent is not encouraged. A31-15.

A04-12. Should the CSA decide to include other stakeholders in the interview process for high-level positions, it would not be a violation of the Act provided:

No more than 1 or 2 board members are included

It is coordinated by an administrator

Board participation is limited to observations/assessments

Final recommendations are wholly within the purview of the superintendent.



Social Media

Social Media



A school official does not violate the Act merely because of engaging in Social Media activity. School officials do not abdicate their first amendment rights but must be mindful of the perception by others. (C-64-21)

SEC considers “*whether a reasonable member of the public could perceive that the school official is speaking in his/her official capacity or pursuant to his/her official duties.*” (C-56-22)



Social Media



Social Media

It is now more critical than ever to underscore and emphasize that when Board members want to speak as private citizens, they must include an appropriate disclaimer that makes the capacity in which they are speaking clear and unambiguous. (C61-21)

Suggested disclaimer:

"THE FOLLOWING STATEMENTS ARE MADE IN MY CAPACITY AS A PRIVATE CITIZEN, AND NOT IN MY CAPACITY AS A BOARD MEMBER. THESE STATEMENTS ARE ALSO NOT REPRESENTATIVE OF THE BOARD OR ITS INDIVIDUAL MEMBERS, AND SOLELY REPRESENT MY OWN PERSONAL OPINIONS."



Social Media



Social Media

Reminder:

- Even if an appropriate disclaimer is used, the substance of a post/statement can render the disclaimer meaningless. **Content matters!**
- While the SEC may/may not be able to sanction derogatory speech, the voting members of the public have the power to choose who they feel is most fit to serve.



Recent SEC Decision

SEC A02-22

A Board member asked if the School Ethics Act would be violated “if as a private citizen” they “answer on social media operational questions about how the district functions.”

SEC Response

Board members do not abdicate their fundamental rights as citizens, but as public officials must exercise precautions subject to the provisions of the Act. When making comments at a time/place other than a public board meeting, it must be made clear the statements do not appear to be on behalf/with authorization of the Board. Although you want to provide information to the public that you feel stakeholders would find useful, it would likely be futile to disclaim you are speaking as a private citizen when the community is aware you are a board member and likely attribute your statements are made in that capacity. Even if you only ever provide links to publicly available information, that may not immunize you from being the subject of an ethics complaint.



Ethics Reminder

In Closing

The Commission wishes to make clear that all Board members should always be treated, and should always treat other members of the Board, with decency, respect, and kindness. Board members have a critically important job and are most effective when they work collaboratively with one another to improve the quality and the delivery of instruction to students. Although it is wholly unrealistic to expect individual Board members to agree on every issue that the Board may encounter, disagreement can still be done with civility, and with an appreciation and respect for the thoughts and opinions of others. Failure in this regard can have a long-lasting and detrimental impact on the students, the community, parents, and staff. (C01-20)

