

P.L. 2001, CHAPTER 178, *approved July 26, 2001*
Assembly, No. 1755 (*First Reprint*)

1 **AN ACT** concerning school board members and employees, amending
2 N.J.S.18A:12-20, N.J.S.18A:16-6, and N.J.S.18A:16-6.1 and
3 amending and supplementing P.L.1991, c.393.

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

7
8 1. N.J.S.18A:12-20 is amended to read as follows:

9 18A:12-20. Whenever a civil [or a] .administrative, criminal or
10 quasi-criminal action or other legal proceeding has been or shall be
11 brought against any person for any act or omission arising out of and
12 in the course of the performance of his duties as a member of a board
13 of education, and in the case of a criminal or quasi-criminal action
14 such action results in final disposition in favor of such person, the
15 board of education shall defray all costs of defending such action,
16 including reasonable counsel fees and expenses, together with costs of
17 appeal, if any, and shall save harmless and protect such person from
18 any financial loss resulting therefrom. Indemnification for exemplary
19 or punitive damages shall not be mandated and shall be governed by
20 the standards and procedures set forth in N.J.S.59:10-4. Any board
21 of education may arrange for and maintain appropriate insurance to
22 cover all such damages, losses and expenses.

23 (cf: P.L.1973, c.336, s.1)

24

25 2. N.J.S.18A:16-6 is amended to read as follows:

26 18A:16-6. Whenever any civil or administrative action or other
27 legal proceeding has been or shall be brought against any person
28 holding any office, position or employment under the jurisdiction of
29 any board of education, including any student teacher or person
30 assigned to other professional pre-teaching field experience, for any
31 act or omission arising out of and in the course of the performance of
32 the duties of such office, position, employment or student teaching or
33 other assignment to professional field experience, the board shall
34 defray all costs of defending such action, including reasonable counsel
35 fees and expenses, together with costs of appeal, if any, and shall save
36 harmless and protect such person from any financial loss resulting
37 therefrom; [and said] provided that

38 a. no employee shall be entitled to be held harmless or have his

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AED committee amendments adopted October 16, 2000.

1 defense costs defrayed in a disciplinary proceeding instituted against
2 him by the board or when the employee is appealing an action taken by
3 the board; and

4 b. indemnification for exemplary or punitive damages shall not be
5 mandated and shall be governed by the standards and procedures set
6 forth in N.J.S.59:10-4.

7 Any board of education may arrange for and maintain appropriate
8 insurance to cover all such damages, losses and expenses.

9 (cf: P.L.1977, c.216, s.1)

10

11 3. N.J.S.18A:16-6.1 is amended to read as follows:

12 18A:16-6.1. Should any criminal or quasi-criminal action be
13 instituted against any such person for any such act or omission and
14 should such proceeding be dismissed or result in a final disposition in
15 favor of such person, the board of education shall reimburse him for
16 the cost of defending such proceeding, including reasonable counsel
17 fees and expenses of the original hearing or trial and all appeals. No
18 employee shall be entitled to be held harmless or have his defense
19 costs defrayed as a result of a criminal or quasi-criminal complaint
20 filed against the employee by or on behalf of the board of education.

21 Any board of education may arrange for and maintain appropriate
22 insurance to cover all such damages, losses and expenses.

23 (cf: N.J.S.18A:16-6.1)

24

25 4. Section 9 of P.L.1991, c.393 (C.18A:12-29) is amended to read
26 as follows:

27 9. a. Any person, including a member of the commission, may file
28 a complaint alleging a violation of the provisions of this act or the
29 Code of Ethics for School Board Members as set forth in section 5 of
30 P.L. , c. (C.)(now pending before the Legislature as this
31 bill), by submitting it, on a form prescribed by the commission, to the
32 commission. No complaint shall be accepted by the commission unless
33 it has been signed under oath by the complainant. If a member of the
34 commission submits the complaint, the member shall not participate in
35 any subsequent proceedings on that complaint in the capacity of a
36 commission member. If a commission member serves on the school
37 board of, or is employed by, the school district which employs or on
38 whose board the school official named in the complaint serves, the
39 commission member shall not participate in any subsequent
40 proceedings on that complaint.

41 b. Upon receipt of a complaint, the commission shall serve a copy
42 of the complaint on each school official named therein and shall
43 provide each named school official with the opportunity to submit a
44 written statement under oath. The commission shall thereafter decide
45 by majority vote whether probable cause exists to credit the allegations
46 in the complaint. If the commission decides that probable cause does

1 not exist, it shall dismiss the complaint and shall so notify the
2 complainant and any school official named in the complaint. The
3 dismissal shall constitute final agency action. If the commission
4 determines that probable cause exists, it shall refer the matter to the
5 Office of Administrative Law for a hearing to be conducted in
6 accordance with the "Administrative Procedure Act," P.L.1968, c.410
7 (C.52:14B-1 et seq.), and shall so notify the complainant and each
8 school official named in the complaint.

9 In making a determination regarding an alleged violation of the
10 Code of Ethics for School Board Members, the burden of proof shall
11 be on the accusing party to establish factually a violation of the code.
12 A decision regarding a complaint alleging violations of the code shall
13 be rendered by the commission within ¹[60] ¹90¹ days of the receipt of
14 the complaint by the commission.

15 c. Upon completion of the hearing, the commission, by majority
16 vote, shall determine whether the conduct complained of constitutes
17 a violation of this act ¹,or in the case of a board member, this act or
18 the code of ethics,¹ or whether the complaint should be dismissed. If
19 a violation is found, the commission shall, by majority vote,
20 recommend to the commissioner the reprimand, censure, suspension,
21 or removal of the school official found to have violated this act ¹,or in
22 the case of a board member, this act or the code of ethics¹. The
23 commission shall state in writing its findings of fact and conclusions
24 of law. The commissioner shall then act on the commission's
25 recommendation regarding the sanction.

26 d. Any appeal of the commission's determination regarding a
27 violation of this act ¹,or in the case of a board member, this act or the
28 code of ethics,¹ and of the commissioner's decision regarding the
29 sanction shall be to the State Board of Education in accordance with
30 Title 18A of the New Jersey Statutes.

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

37 f. Notwithstanding the provisions of subsections c. and d. of this
38 section, the commission shall be authorized to determine and impose
39 the appropriate sanction including reprimand, censure, suspension or
40 removal of any school official found to have violated this act who is
41 an officer or employee of the New Jersey School Boards Association.
42 Any action of the commission regarding a violation of P.L.1991, c.393
43 (C.18A:12-21 et seq.) or the sanction to be imposed in the event that
44 the school official involved is an officer or employee of the New Jersey
45 School Boards Association shall be considered final agency action and
46 an appeal of that action shall be directly to the Appellate Division of

1 the Superior Court.
2 (cf: P.L.1995, c.14, s.4)

3
4 5. (New section) A school board member shall abide by the
5 following Code of Ethics for School Board Members:

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

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

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

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

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

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

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

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

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

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

39
40 6. This act shall take effect immediately and shall also apply to any
41 claim for reimbursement, defrayal or indemnity made in writing to a
42 board in the two years preceding the effective date.

43

44

45

46 Expands indemnification for school board members and employees and
47 establishes a code of ethics for school board members.