



New Jersey School Boards Association

Ethics for School Officials

Presented by:
NJSBA Field Services Representatives



School Ethics Act

N.J.S.A. 18A 12-23.1 (effective April 1992)

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.



NJQSAC – Governance Indicator

Governance Indicator 13:

District board of education members and school administrators annually file a timely and properly completed financial and personal/relative disclosure statement. The district board of education annually discusses the School Ethics Act and no district board of education member or administrator has been found in violation of the School Ethics Act. (N.J.S.A. 18A:12-22 and 26)

Points: 8

Indicator 13 Purpose

To ensure transparency and ethical conduct of board of education members.

Indicator 13 Documentation for Verification

This indicator is monitored remotely.

- Annual online completion of required disclosure statements for board of education members and school administrators.
- Annual discussion of the School Ethics Act, as demonstrated in the board of education minutes.
- List of any board of education member or administrator in the district who has been in violation of the School Ethics Act from the School Ethics Commission.



The School Ethics Act Established:

School Ethics Commission

Conflicts of Interest

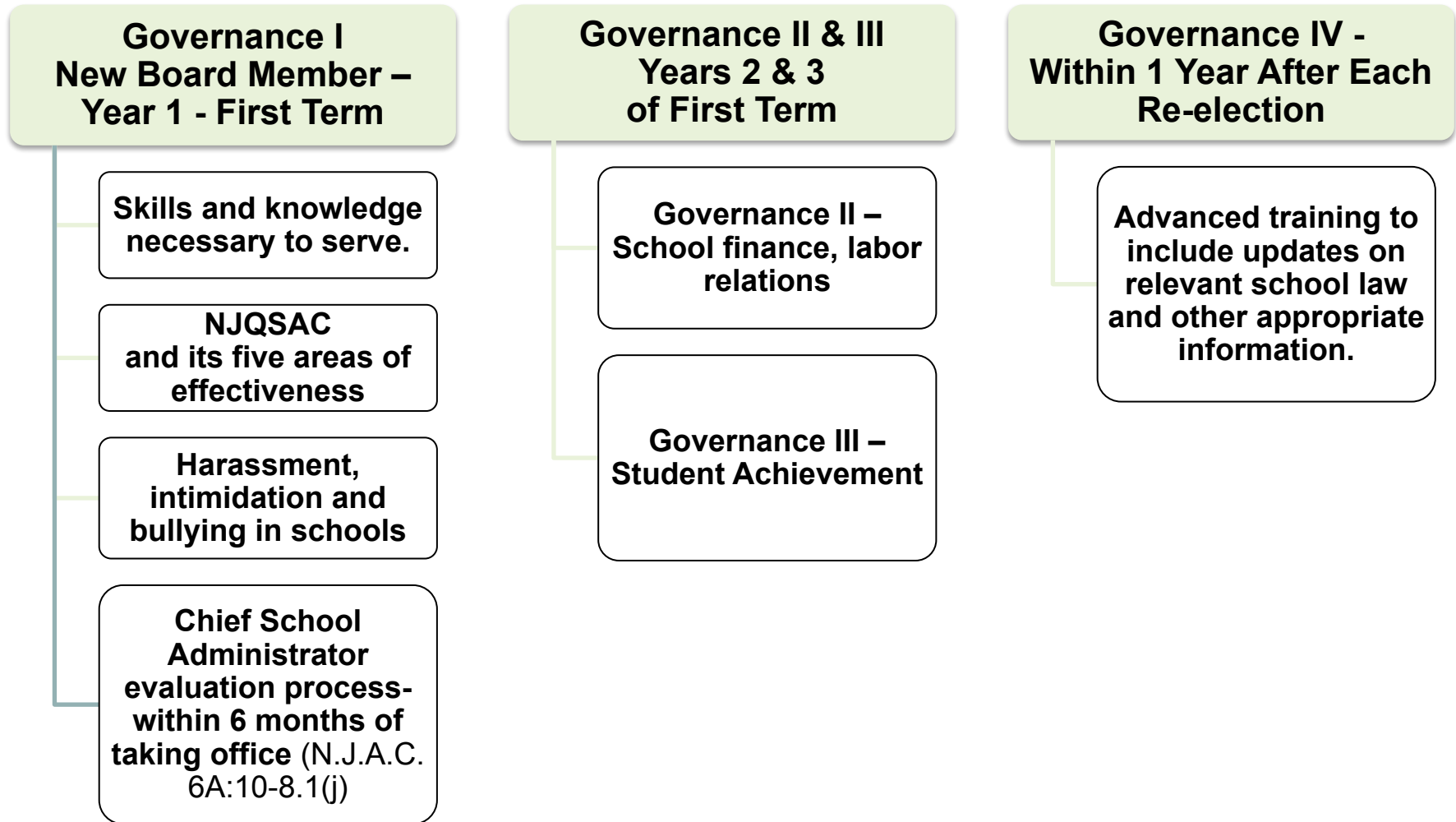
Mandatory Training Requirements for board members

Code of Ethics (2001- 9 years later)

Disclosure Statements – Personal/ Relative and Financial



Mandated Training To Be Provided by NJSBA N.J.S.A. 18A:12-33





School Ethics Commission (SEC)

5

**Non-school
Officials**

9

**members
appointed by the
governor for a
3-year term**

**(maximum 5 from
any one political
party)**

2

**School Board
Members**

2

**School
Administrators**



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 from SEC.

Ethics Complaints

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



Penalties Recommended by SEC

Violation of the Act

SEC may recommend to the Commissioner:

Reprimand

**Rebuke by
Commissioner**

Censure

**Formal
disapproval by
Commissioner
publicized by
adoption of
resolution**

Suspension

**Length
recommended
by SEC and
decided by
commissioner;
formal
resolution**

Removal

**Removal from
office for
remaining
length of term**

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



Advisory Opinion A13-20

Only **Public** Advisory Opinion in 2020

- Superintendent's sister-in-law (brother's wife), a lunch aide in the district (hired before superintendent), was selected by the principals as the finalist for a secretarial position.
 - Superintendent asked SEC if it was fair to prohibit a qualified and vetted employee to move into another role only because her brother-in-law is the superintendent?
-
- SEC advised that if the superintendent recommended his sister-in-law for a promotion he would violate N.J.S.A. 18A: 12-24 (b) and/or (c). The public would reasonably perceive this action was securing an unwarranted privilege, advantage or employment for an "other" and would leave a justifiable impression that public trust was being violated.
 - Superintendent must also recuse himself from any discussion on sister-in-law's employment as a lunch aide.



Code of Ethics for School Board Members

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)

C.

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)

f.

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.

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)

j.

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.



2021 SEC/Commissioner Decisions

At a Booster Club meeting a Board president used his position to intimidate parents and threatened a new coach's job, after attempting to remove the former head coach the year before.

Violation N.J.S.A. 18A: 12-24.1 (i) failure to support school personnel in the proper performance of their duties **Penalty: Suspension for 3 months**

A board member voted to approve a resolution that the superintendent completed a merit goal. The member's child was a tenured teacher in the district. The board member knew she could not participate in the evaluation and contract terms but said she was unaware she could not vote on merit goals. Contended her vote was ministerial – only needed 4 votes to pass (passed 6-0) so her vote did not impact the outcome.

Violation of N.J.S.A. 18A: 12-24 (b) using position to secure an unwarranted privilege advantage, or employment for themselves, immediate family member or "other." Even in seemingly ministerial matters, the level of conduct expected of public officials must be beyond reproach. Board members with a relative in the district must always abstain from involvement in, without limitation, all matters pertaining to the superintendent. It will always create a justifiable impression among the public that the member is using, or attempting to use, their position to secure an unwarranted privilege or advantage. **Penalty: Reprimand**



2021 SEC/Commissioner Decisions

A board member who receives an annual honorarium from a church for volunteer services, made a resolution and voted in favor of a request for this same church to use the district's facilities.

Violation of N.J.S.A 18A: 12-24 (c) direct or indirect financial involvement that might reasonably be expected to impair objectivity or independence. **Penalty: Reprimand**

A board member distributed flyers to vote for a particular political party and indicated that the complainant was the leader of a “radical” group that was going to take over town government. The flyer included the member's picture, name, and Board of Education, without a disclaimer.

Violation of N.J.S.A 18A: 12-24.1 (e) took private action beyond the scope of duties. Failure to include a disclaimer when deliberately referring to one's membership on the Board has the potential to comprise the board; (f) Because did not use disclaimer, surrender one's individual judgement to a special interest or partisan political groups; (g) In all other matters, I will provide accurate information... - use of term “radical” – inaccuracies in flyer. **Penalty: Censure**



2021 SEC Commission Decisions

A board member wrote an op-ed endorsing candidates for a board election. Did not endorse the complainant and openly advocated for her non-election. A disclaimer was used.

Violation of N.J.S.A 18A: 12-24.1 (e) make no personal promises or take private action that may comprise the board. The disclaimer was insufficient to convey that was expressing personal opinion due to multiple references to position on Board and Board matters generally. 18A: 12-24 (b) The endorsement could secure unwarranted privilege or advantage to endorsed candidates by virtue of appearance were receiving a Board endorsement. **Penalty: Reprimand**

A board member on his personal Facebook page made anti-Muslim, racist, incendiary and offensive comments.

Violation of N.J.S.A 18A: 12-24.1 (e) make no personal promises or take private action that may comprise the board. These disparaging posts undermined the public's trust in the Board and compromised the Board's ability to engaged with the public. **Penalty: Censure** (was off the Board)



Social Media

SEC Recommended 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.”

- **SEC noted that even if an appropriate disclaimer is used, the substance of a post/statement can, nevertheless, render the disclaimer meaningless.... It is the substance of the writing, and not the disclaimer itself, that will dictate whether the school official has rendered a disclaimer meaningless.**



Social Media

Saini v. Tufano

C48-20 December 22, 2020

SEC states “Respondent is still a publicly elected school official who is charged with serving, among other things, the educational needs of a diverse, dynamic, and multifaceted student population. **Public words, which derogate from the mission of a board of education serve no purpose, create unnecessary hostility and animosity within a community, and ultimately have the greatest detrimental impact on the very people that Respondent is tasked to serve – the students. Although the Commission acknowledges the sanctity of the First Amendment, words that deliberately cause divisiveness should have no place in the educational setting.**



Social Media – In Summary

- It doesn't matter in what medium the opinion is expressed—rules are the same.
- Use SEC-required disclaimer
- Ensure speech meets requirements of School Ethics Act and/or Code of Ethics.
- Even if speech technically meets the requirements of the ethics laws, you should ask yourself whether it would deliberately cause divisiveness or derogate from the mission of the board of education.



Ethical?

There is a Board resolution to approve the hiring of the auditing firm that you work for.

Can you participate in the vote?



Conflicts of Interest- *N.J.S.A.18A: 12-24*

Recuse yourself if there is a benefit to **you** as a **school official** or your **immediate family**, due to a:

Business interest

Use of position to secure unwarranted privileges, advantages, or employment.
(Extends to “others” which can include Nepotism policy definition of relative.)

Financial involvement

Gift, favor, etc. offered with the intent to influence

Personal involvement that creates a benefit

Service or employment that may prejudice independent judgment

SEC definition of Immediate Family (18A:12-23): spouse or dependent child residing in same household.

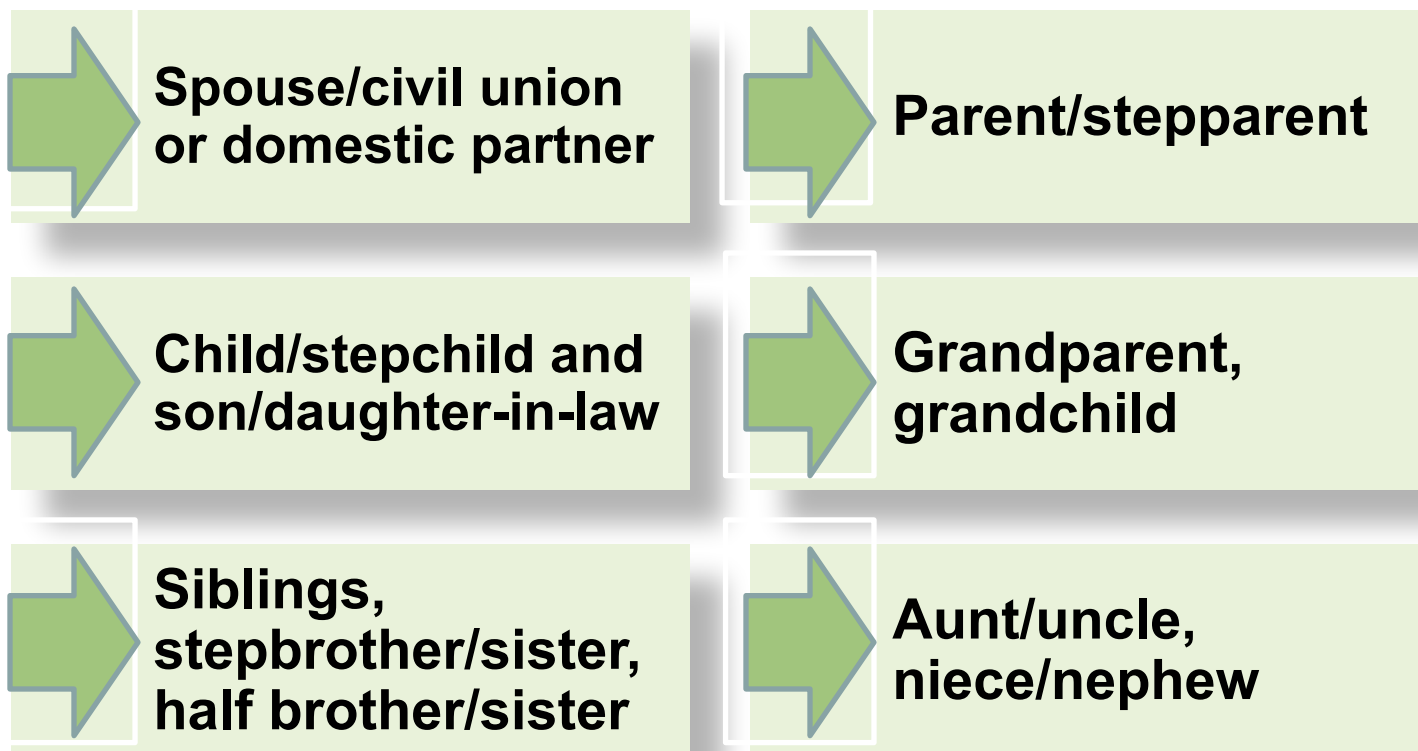




Who Qualifies as a Relative?

N.J.A.C. 6A:23A-1.2

Accountability Regulation Definition*

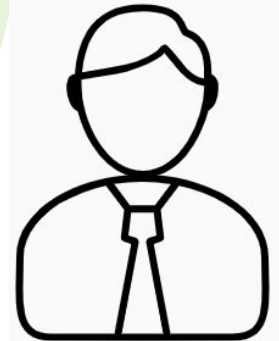


* **Whether related to school official or spouse/partner** by blood, marriage or adoption.



Ethical?

The district has an opening for a LDTC. It would be a perfect job for your nephew who lives two towns away.



Can the district hire your nephew?

The Board is meeting to discuss the superintendent's performance evaluation. Your daughter is a substitute in the district.



Can you participate in the discussion?



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.



Ethical?

The Board is voting to approve the Memorandum of Agreement with the local education association. You are a teacher in another district.



Can you participate in the vote?



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.



Before You Volunteer In School...

Become familiar with NJ School Ethics Advisory Opinions on volunteerism, e.g., A15-18; A17-15; A24-15; A32-14.

<https://www.nj.gov/education/legal/ethics/index.shtml>

And ask yourself these questions:

1. Will I be giving directions or orders to staff or students? **No**
2. Will I need to take orders from staff? **No**
3. Will I be in the school often? **No**
4. Will it seem to visitors that I work in the school? (i.e., “enmeshed in the building”) **No**
5. Will I be handling the school district’s money at all? **No**
6. Will I be the lead or regular volunteer for a school district club, or a coach for a school district activity or sport? **No**
7. Does the organization for which I am performing the school-based volunteer work (e.g., Girl Scouts, PTO, Rec Commission) have its own bylaws and bank accounts? **Yes**

If your answers are different from any of the answers above, your planned volunteerism is likely at odds with the role of school board member. Talk to your superintendent and request input from the school district’s attorney.



Interview Committees

A04-12 One or two board members; **administrative staff coordinates** participation – observations and assessments; CSA recommendation.

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

- Exceptions in narrow circumstances subject to approval of the superintendent and the guidelines in **A04-12**.

A15-10 – Exit Interviews – No!



Points to Consider...



NJSBA recommends boards develop a list of board members and administrators who have a conflict and review it regularly.



Consult with your Board attorney on ethics issues and to identify conflicted members/administrators.

Continue to check *School Board Notes* to keep abreast of newly released advisories.





In Closing...

**“School officials must always be cognizant of their responsibility to protect the public trust, to honor their obligation to serve the interest of the public and Board, and to periodically re-evaluate the existence of potential conflicts.”
(A10-18)**



Links for Examples Used

School Ethics Commission website:

<https://www.nj.gov/education/ethics/>

2021 Commissioner Decisions: available on link above

Advisory Opinions

Link to all Advisory Opinions:

<https://www.nj.gov/education/legal/ethics/advisory/>

Opinions related to Volunteerism: A32-14, A10-15, A17-15, A24-15, A15-18

Opinions Related to Interviews: A15-10, A04-12, A31-15

2020 Example in Presentation: A13-20

Doctrine of Necessity: A19-17

Union Endorsement: A10-18