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### **0110 - Identification**

#### **Name**

The official name of the Board of Education shall be “The Board of Education of Lopatcong Township in the County of Warren.”

#### **Purpose**

The Board of Education exists for the purpose of providing a thorough and efficient system of free public education in grades Pre-Kindergarten through eight in the Lopatcong Township School District.

#### **Composition**

The Lopatcong Township School District is comprised of all the area within the municipal boundaries of Lopatcong Township.

#### **Classification**

The school district shall be classified as a Type II district.

#### **Address**

The address of the Board of Education shall be:

321 Stonehenge Drive  
Phillipsburg, New Jersey 08865

#### **Legal References**

N.J.S.A. 18A:8-1; 18A:9-2; 18A:9-3; 18A:10-2

Adopted: August 18, 2009



### **0120 – Role of the Board**

*(Limits of authority, powers, and duties)*

The Constitution of the State of New Jersey charges the legislative bodies for the State to establish a system of public education. This has been done through those Statutes found in Title 18A and all others pertaining to education, court interpretations of the validity of the Statutes, and the powers implied under them. The Board has within its bounds, the authority to consider accepting or rejecting the provisions of the permissive laws. In all cases where the State laws do not provide or prohibit, the Board shall consider itself the agent for establishing and appraising educational activities.

The Lopatcong Township Board's primary responsibility is to establish those programs, purposes, and procedures that will best produce the education needed by school district pupils. In accordance with this, the Lopatcong Township Board of Education shall seek to achieve the following goals:

1. Concentrate the Board's collective effort on its policymaking and planning responsibilities;
2. Formulate policies that best serve the educational interests of each pupil;
3. Provide the Superintendent with sufficient and adequate guidelines for implementing Board policies;
4. Maintain effective communication with the public, staff, and pupils; and
5. Conduct Board business openly, soliciting, and encouraging broad-based involvement.

#### **Legal References**

N.J.S.A. 18A:10-1; 18A:11-1; 18A:16-1; 18A:20-1; 18A:27-4

Adopted: August 18, 2009



### **0131 – Bylaws and Policies**

#### **Formulation, Adoption, and Amendment of Bylaws and Policies**

The governance of the Lopatcong Township School District through bylaws and policies directed toward providing a thorough and efficient education for its pupils is one of the most important functions of the Board of Education. Therefore, the Board will establish a careful process to ensure the:

1. Development of clear, workable, and legal bylaws and policies that reflect mature consideration of the will and needs of the community, and
2. Timely, accurate evaluation of the effectiveness of the policies in the achievement of district objectives and progress toward goals.

To ensure that the total bylaw or policy process is implemented effectively, the Board appoints the Superintendent as the overall policy coordinator. In cooperation with the Board, the Superintendent shall establish procedures to implement this bylaw including an action plan for: the careful development of policies and their regular review; appropriate policy goal-setting; a process for evaluation of district and school progress toward, or achievement of, policy goals; and appropriate standards of measurement and criteria for judging such progress.

The procedures will conform in all respects to the bylaws of the Board concerning agenda and meetings. Interested parties in the school community may submit proposals for additions or amendments to the school district policy manual and may contribute opinions and information for the Board's consideration.

The Superintendent will keep current with changes in Federal and State laws that may require new policies or amendments to current policies. In addition, the Superintendent will constantly review current or anticipated issues facing the district that may require new or amended policies. The Superintendent will prepare proposed new or amended policy drafts and present them to the Board Policy Committee for their review and approval before they are submitted to the full Board. Any conflicts between proposed and existing policies will be assessed and brought to the attention of the Policy Committee before it considers the Superintendent's recommendation and to the Board at the first reading of the proposed new or amended policy.

Notice of possible adoption of a bylaw or policy will be stated in the Board Meeting Agenda and copies of the proposed policy or amendment will be included in the Board Meeting Material Packet. While the proposed new policies or current policy amendments don't need to be actually "read" at the Board meetings, copies must be made available to the public at the first and second reading and on the Board of Education's website. Amended policies and new policies may be adopted on the second reading by a majority vote of the full Board. The first and second readings of proposed policies or amendments must be at regular Board meetings. Changes to current policies that correct spelling or typographical errors and/or update Legal References or Cross-References do not require full Board approval. However, such changes must be brought to the attention of the Board Secretary and Policy Committee chair.



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The Superintendent will establish and maintain an orderly plan for preserving and making accessible the bylaws and policies adopted by the Board and the administrative rules and regulations needed to put them into effect. Every bylaw, policy, and regulation must be reviewed at least once every five years to determine if it is still relevant and whether it needs updating to better reflect the current educational environment. This review will be conducted by, and documented in the meeting minutes of, the Policy Committee. At the discretion of the Superintendent, the Board Secretary, or Policy Committee chair may be engaged to assist the Superintendent in policy development.

In the interest of efficient administration, the Superintendent will have the power to decide all matters of detail that may arise for which no specific provision is made in the policies adopted by the Board, but no emergency action will constitute official Board policy. The Superintendent will present the matter at the next Board meeting, so the Board can consider policy to deal with that situation in the future.

The Board reserves to itself the right to final determination of what will be the official policy of the Lopatcong Township School District.

### Legal References

N.J.S.A. 18A:11-1

Adopted: August 18, 2009



### **0132 – Executive Authority**

The Board of Education shall exercise its executive power in part by the appointment of a Superintendent as Chief School Administrator, who shall enforce the statutes of the State of New Jersey, rules of the State Board of Education, and policies of this Board.

The Superintendent shall prepare regulations for the administration of the school district that are consistent with statutes or rules of the State Board of Education and are dictated by the policies of this Board. Administrative regulations shall be binding on the employees of this district and the pupils in the schools of this district when issued and shall be provided to the Board for the information of Board members except where Board approval is required by law.

The Superintendent shall be delegated the authority to take necessary action in circumstances not governed by Board policy and shall report any such action to the Board at the first Board meeting following the action.

The Superintendent shall have a seat on the Board and shall have the right to speak on all matters at meetings of the Board, but shall have no vote.

#### **Legal References**

N.J.S.A. 18A:17-20

Adopted: August 18, 2009



### **0133 – Adjudication of Disputes**

The Board of Education may assume jurisdiction over any dispute or controversy arising within this school district and concerning any matter over which authority has been vested in the Board by statute, rule of the State Board of Education, or a contract or policy of this Board.

The Board may hold hearings that will offer the parties to a dispute, on notice duly given, a fair and impartial forum for the resolution of the matter.

Beyond the basic requirements of due process a hearing will vary in form and content as dictated by the severity of the consequences that may flow from the Board's determination, the degree of difficulty of establishing findings of fact from conflicting evidence, and the impact of the Board's decision on the school district.

Regulations for the conduct of adjudicatory hearings of the Board shall be prepared as guidelines for those who may be heard by the Board.

A decision of the Board may be appealed to the Commissioner of Education.

#### **Legal References**

N.J.S.A. 18A:11-1

Adopted: August 18, 2009



### **0134 – Board Self-Evaluation**

The Board of Education is committed to the belief that every part of the school system in this district should be accountable to the public and that performance evaluation is essential to that accountability. The Board further believes that the improvement and growth of any institution depends upon an honest appraisal of its strengths and weaknesses. The Board accepts, therefore, responsibility for the conduct of a systematic program of self-evaluation and appraisal. The standards against which the Board will evaluate itself will be the educational goals, bylaws, and policies duly adopted by this Board.

The Board will annually adopt an evaluation instrument that permits individual Board members to record their assessments of the conduct of Board meetings, the fiscal management of the district, the conduct of the instructional program, and the relationship of the Board with the Superintendent, other district staff members, and the community.

The assessments of Board members will be tabulated and presented for discussion at a regular meeting of the Board in which the Superintendent will be invited to participate. The Board will formulate, as appropriate, goals and priorities that will serve to guide the Board in the ensuing school year.

#### **Legal References**

N.J.S.A. 18A:11-1

Adopted: August 18, 2009



### **0141.01 – Board Members and Term (Sending District)**

The Lopatcong Township Board of Education shall consist of nine members.

The term of a Board member shall be three years, except that:

1. The term of a member appointed to fill a vacancy shall be from the member's appointment to the organizational meeting following the next annual election, except that;
2. The term of a member appointed to fill a vacancy within sixty days immediately preceding an annual election shall be from the member's appointment to the organizational meeting following the second annual election after his/her appointment;
3. The Board of Education shall have representation on the Phillipsburg Board of Education (receiving district) in accordance with N.J.S.A. 18A:38-8.

Representation on the receiving district Board shall be in accordance with N.J.S.A. 18A:38-8.2. In accordance with N.J.S.A. 18A:38-8.2 et. seq. the sending district shall have no representation on the receiving district Board of Education if the pupils of a sending district comprise less than 10% of the total enrollment of the pupils in the grades of the receiving district in which the pupils of the sending district will be enrolled. If the pupils of a sending district comprise at least 10% of the total enrollment of the pupils in the grades of the receiving district in which the pupils of the sending district will be enrolled, the sending district will have representation on the receiving Board of Education in accordance with N.J.S.A. 18A:38-8.2.a.(2). The calculation of percentages required shall be based on the number of pupils reported as of the last school day prior to October 16 of each pre-budget year. If the total number of pupils of two or more sending districts, which do not qualify for representation in accordance with N.J.S.A. 18A:38-8.2.a.(2), comprise at least 15% of the total enrollment of the pupils in the grades of the receiving district in which the pupils of the sending district will be enrolled, the sending districts will have representation on the receiving Board of Education in accordance with N.J.S.A. 18A:38-8.2.b. The number of representatives designated by the sending districts shall be in accordance with N.J.S.A. 18A:38-8.2.c.

The Board of Education shall designate their representative(s) to serve on the receiving district Board of Education on an annual basis upon notification from the County Superintendent of the appropriate representation on the receiving Board of Education. This designation shall be made by the sending district Board of Education at its meeting closest in time to the annual organization meeting of the receiving district Board of Education and shall serve a one-year term beginning with the annual reorganization meeting of the receiving Board of Education. If this position becomes vacant, the sending district Board shall designate a new representative(s) to serve the remainder of the term.

4. The Lopatcong Township (sending district) representative(s) shall be eligible to vote on the following matters before the Phillipsburg (receiving district) Board of Education:



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- a. Tuition to be charged the sending district by the receiving district and the bill lists or contracts for the purchase, operation or maintenance of facilities, equipment and instructional materials to be used in the education of the pupils of the sending district;
  - b. New capital construction to be utilized by sending district pupils;
  - c. Appointment, transfer or removal of teaching staff members providing services to the pupils of the sending district, including any teaching staff member who is a member of the receiving district's central administrative staff; and
  - d. Addition or deletion of curricular and extracurricular programs involving pupils of the sending district.
5. While the sending district representative shall have limited voting rights, in all other respects the representative shall function as a full member of the receiving Board of Education, including participation in the closed session discussions.

### Legal References

N.J.S.A. 18A:12-6; 18A:12-9; 18A:12-11; 18A:12-15; 18A:38-8

N.J.A.C. 6A:23A-2.1 et seq.

Adopted: August 18, 2009

Revised: May 10, 2011



### **0142 – Board Member Qualifications, Prohibited Acts, and Code of Ethics (M)**

Each member of the Board of Education shall possess the qualifications required by law and shall be bound by the provisions of the School Ethics Act.

#### **Qualification of Office**

- A. A Board member must be a citizen of the United States.
- B. A Board member must be a current resident of the district the member represents and must have been such for at least one continuous year immediately preceding the member's election or appointment.
- C. A Board member may not have been convicted of a felony, or a crime or offense listed in N.J.S.A. 18A:12-1. To fulfill this requirement:
  1. Each member of the Board of Education, within thirty (30) calendar days of his/her election or appointment to the Board will undergo a criminal history background check investigation to ensure that he/she is not disqualified for membership due to a conviction of a crime or offense pursuant to N.J.S.A. 18A:12-1;
  2. The Board will reimburse any member requesting reimbursement for the cost of the criminal history record check, including the costs for administering and processing the check, unless he/she is found to be disqualified; and
  3. The Commissioner of Education will notify the Board of Education if a member has been disqualified from membership on the Board as the result of the criminal history record check. The Commissioner of Education will also notify the Board if a Board member has charges enumerated in N.J.S.A. 18A:12-1 pending against him/her and the Board shall take appropriate action. If the pending charges result in conviction, the member shall be disqualified from continued membership on the Board.
- D. A Board member must be able to read and write.
- E. A Board member must be registered to vote in the district and not disqualified from voting pursuant to N.J.S.A. 19:4-1.
- F. A Board member cannot concurrently hold office as mayor or a member of the governing body of Lopatcong Township.

#### **Prohibited Acts**

“Business” means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union, political organization, or other legal entity but does not include a school district or other public entity.



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“Interest” means the ownership of or control of more than ten percent of the profits, assets, or stocks of a business but does not include the control of assets in a labor union.

“Immediate family” means the person to whom the Board member is legally married and any dependent child of the Board member residing in the same household.

No Board member or member of his/her immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity that is in substantial conflict with the proper discharge of his/her duties in the public interest.

No Board member shall use or attempt to use his/her official position to secure unwarranted privileges, advantages, or employment for him/herself, members of his/her immediate family, or others.

No Board member shall act in his/her official capacity in any matter where he/she, a member of his/her immediate family, or a business organization in which he/she has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his/her independence of judgment in the exercise of official duties. No Board member shall act in his/her official capacity in any matter where he/she or a member of his/her immediate family has a personal involvement that is or creates some benefit to the Board member or a member of his/her immediate family.

No Board member shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his/her independence of judgment in the exercise of official duties.

No Board member or member of his/her immediate family or business organization in which he/she has an interest shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him/her, directly or indirectly, in the discharge of his/her official duties, except that the member may have solicited or accepted contributions to his/her campaign for election to public office if he/she had no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence him/her in the discharge of official duties. Board members may not accept offers of meals, entertainment or hospitality which are limited to clients/customers of the individual providing such hospitality. Board members may attend hospitality suites or receptions at conferences only when they are open to all persons attending the conference.

No Board member shall use, or allow to be used, his public office or any information not generally available to the members of the public which he/she receives or acquires in the course of and by reason of his/her office, for the purpose of securing financial gain for him/herself, any member of his/her immediate family, or any business organization with which he/she is associated.

No Board member or business organization in which he/she has an interest shall represent any person or party other than the Board of Education or this school district in connection with any cause, proceeding, application, or other matter pending before this school district or in any proceeding



involving this school district, except that this provision shall not be deemed to prohibit representation within the context of official labor union or similar representational responsibilities.

It is not a conflict of interest if, merely by reason of his/her participation in any matter voted upon by the Board, a Board member accrues material or monetary gain that is no greater than the gain that could reasonably be expected to accrue to any other member of the member's business, profession, occupation, or group.

No elected Board member shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward, or other thing of value is promised to or given to or accepted by the member or a member of his/her immediate family, whether directly or indirectly, in return for the information so requested.

Nothing shall prohibit a Board member or members of his/her immediate family from representing him/herself or themselves in negotiations or proceedings concerning his/her or their own interests, except that Board members shall disqualify themselves from participating in negotiations and voting on collective bargaining agreements where their spouse or dependent children are members of the bargaining unit.

Each Board member shall annually, in accordance with N.J.S.A. 18A:12-25 and 18A:12-26, file a disclosure statement regarding potential conflicts of interest.

### **Ineligibility for District Employment**

A Board member cannot be appointed to a paid office or position required to be filled by the Board, except where law permits or requires that the office or position be filled by a Board member, and is ineligible for appointment to a paid office or position in the district for at least six months after the member's retirement, resignation, or removal from Board membership.

### **Code of Ethics**

In accordance with N.J.S.A 18A:12-24.1 every Board member will abide by the following Code of Ethics. The Board member will:

1. 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.
2. Make decisions in terms of the educational welfare of children and seek to develop and maintain public schools that meet the individual needs of all children regardless of their ability, race, creed or religious beliefs, gender, sexual orientation, or social standing.
3. Confine his/her Board action to policy-making, planning and appraisal, and help to frame policies and plans only after the Board has consulted those who will be affected by them.
4. Carry out his/her responsibility not to administer the schools, but together with fellow Board members, insure they are well run.



5. Recognize that authority rests with the Board of Education and make no personal promises nor take any private action that may compromise the Board.
6. Refuse to surrender his/her independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.
7. Hold confidential all matters pertaining to the schools, which, if disclosed, would needlessly injure individuals, or the schools. In all other matters, he/she will provide accurate information and, in concert with fellow Board members, interpret to the staff the aspirations of the community for its school.
8. Vote to appoint the best-qualified personnel available after consideration of the recommendation of the Superintendent.
9. Support and protect school personnel in the proper performance of their duties.
10. Refer all complaints to the chief administrative officer and act on the complaints at public meetings only after failure of an administrative solution.

Each Board member is required to sign an acknowledgment that he/she received a copy, read and will become familiar with the Code of Ethics for School Board Members contained within N.J.S.A. 18A:12-21 et seq. The Board Secretary will provide each Board member with a copy of the Code of Ethics and the required acknowledgement by the reorganization meeting each year and will maintain the original signed acknowledgment(s) in the Board office.

The Board will receive a copy of and discuss the School Ethics Act and the Code of Ethics for School Board Members, pursuant to N.J.S.A. 12-21 et seq., at a regular scheduled public meeting each year. The discussion may include presentations by school administrative staff, the Board attorney, Board members and/or other professionals familiar with the School Ethics Act and the Code of Ethics. In addition, the Board Attorney, Superintendent and/or School Business Administrator/Board Secretary will keep the Board informed of decisions by the School Ethics Commission, Commissioner of Education, State Board of Education and courts.

### **Oath of Office**

Each Board member shall, before entering upon the duties of the office, swear or affirm under oath that he/she qualifies for membership and will faithfully discharge the duties of the office of Board member.

### **Legal References**

N.J.S.A. 18A:12-1; 18A:12-1.1; 18A:12-2; 18A:12-2.1; 18A:12-21 through 18A:12-34; 41:1-3  
School Ethics Commission Policy Guideline 1

Adopted: August 18, 2009

Revised: August 30, 2011



### **0142.01 – Nepotism (M)**

The Board of Education adopts this Nepotism Policy as a condition of receiving State aid pursuant to N.J.A.C. 6A:23A-6.2.

For the purposes of this Policy, “relative” means an individual’s spouse, by marriage or civil union pursuant to N.J.S.A. 37:1-33, domestic partner as defined in N.J.S.A. 26:8A-3, or the individual’s or spouse’s parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother or half-sister, whether the relative is related to the individual or the individual’s spouse by blood, marriage or adoption.

For the purposes of this Policy, “immediate family member” means the person’s spouse, partner in a civil union as defined in N.J.S.A. 37:1-33, domestic partner as defined in N.J.S.A. 26:8A-3, or dependent child residing in the same household.

For the purposes of this Policy, “administrator” is defined as set forth in N.J.S.A. 18A:12-23.

No relative of a Board member, an administrator, or the Superintendent shall be employed in an office or position in this school district except that a person employed by the school district on the original effective date of this Policy or the date a relative becomes a Board member, an administrator, or the Superintendent shall not be prohibited from continuing to be employed or promoted in the district.

The Superintendent of Schools shall not recommend to the Board of Education pursuant to N.J.S.A. 18A:27-4.1 any relative of a Board member, an administrator, or the Superintendent. However, in accordance with N.J.A.C. 6A:23A-6.2(a)2, the district may employ a relative of a Board member, an administrator, or the Superintendent provided the district obtains the approval from the Executive County Superintendent. Such approval shall be granted only upon demonstration by the school district that it conducted a thorough search for candidates and that the proposed candidate is the only qualified and available person for the position.

A school district administrator shall be prohibited from exercising direct or indirect authority, supervision, or control over a relative of the administrator. Where it is not feasible to eliminate such a direct or indirect supervisory relationship, appropriate screens and/or alternative supervision and reporting mechanisms must be put in place.

A school district administrator or Board member who has a relative who is a member of the bargaining unit shall be prohibited from discussing or voting on the proposed collective bargaining agreement with that unit or from participating in any way in negotiations, including, but not limited to, being a member of the negotiating team or being present with the Board of Education in closed sessions when negotiation strategies, positions, or offers are being discussed; provided however, that the administrator may serve as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the district can provide such information.

A school district administrator or Board member who has an immediate family member who is a member of the same Statewide union in another school district shall be prohibited from participating in



any way in negotiations, including but not limited to, being a member of the negotiating team or being present with the Board of Education in closed sessions when negotiation strategies, positions, or offers are being discussed, prior to the Board of Education attaining a Tentative Memorandum of Agreement with the bargaining unit that includes a salary guide and total compensation package. Once the Tentative Memorandum of Agreement is established, a school district administrator with an immediate family member who is a member of the same Statewide union in another school district may fully participate in the process, absent other conflicts. Notwithstanding these provisions, a district administrator who has an immediate family member who is a member of the same Statewide union in another district may serve as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the district can provide the information.

### Legal Reference

N.J.A.C. 6A:23A-6.2

Adopted: August 18, 2009  
Revised: July 12, 2011



### **0143 – Board Member Election and Appointment**

The election and appointment of Board of Education members will be conducted in strict compliance with law.

A vacancy on the Board of Education will be filled by:

1. The County Superintendent, if a vacancy is caused by;
  - a. The absence of candidates for election to the school Board, or
  - b. The removal of a member because of lack of qualifications, or
  - c. The failure of the Board to appoint a person to a vacancy within sixty-five days following its occurrence, or
  - d. A tie for election between two or more candidates in a special runoff election.
2. Special election within sixty days of the annual election, if;
  - a. Two or more qualified candidates tie for election, or
  - b. The annual election is disqualified due to improper election procedures.
3. The County Superintendent, to a number sufficient to make up a quorum of the Board if, by reason of vacancies, a quorum is lacking;
4. The Commissioner of Education if there is a failure to elect a member at the annual school election due to improper election practices; or
5. A majority vote of the remaining members of the Board of Education after the vacancy occurs in all other cases.

The Board Secretary shall promptly notify the President of a vacancy to be filled by the Board; the President shall inform all other Board members. The Board will give public notice of the vacancy and invite any qualified person to submit a written request for consideration of his/her candidacy for the vacancy. The Board may also require candidates submit a resume with their written request.

In considering candidates who have expressed an interest in a vacancy, the Board of Education may interview interested candidates in public or executive session. The Board will vote to appoint a candidate to a vacancy in public session. In the event interviews are conducted in executive session, Board members, in the public session nomination and voting process, may express their opinion in support of their vote for a candidate.

A roll call vote will be conducted on candidates in the order the candidates were nominated with a second. If there are two or more vacancies, each vacancy will be filled by a separate election process. The first candidate who receives the votes of a majority of the remaining Board members will be elected to the vacancy. In the event no candidate receives a majority vote of the remaining Board members, a second election shall be conducted between the two candidates receiving the highest number of votes.

All school elections shall be by ballot and no grouping of candidates or party designation shall appear on any ballot to be used in a school election.



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An annual school election shall be held in each type II local district, on the third Tuesday in April and in regional district, on the third Tuesday in April of each year, as provided in section 18A: 13-10, and in case either of such days falls on a legal holiday the election shall be held on the following day.

The Board of Education of a type II district may call a special election of the legal voters of the district at any time when in its judgment the interests of the schools require it, or whenever fifty of such legal voters shall by petition so request but no special school election shall be called to be held in any municipality on any day within twenty days before or after the day fixed according to law for the holding of any primary election for the general election or municipal or general election and no more than two special elections shall be called by any Board of Education within any period of six months to submit to the legal voters of the district for their adoption or rejection any proposal, resolution or question authorizing the raising of a special district tax, or the issuance of bonds of the district, for the same purpose, unless the commissioner shall first have certified in writing the necessity therefore.

No business shall be transacted at any special election except such as shall have been set forth in the notices by which the election was called and in the notices of any special election, called upon petition as aforesaid, there shall be inserted the purposes named in the petition so far as the same are not in conflict with the provisions of this title.

All special elections shall be called in the manner provided for the calling of the annual school election. The qualification of voters, conduct of the election, and establishment of voting districts, together with polling places therein shall be governed in all respects by the provisions of the law regulating the annual school election, and in the case of special school bonding election, the form of ballot shall be controlled by the form prescribed by section 18A: 14-37.

### Legal References

N.J.S.A. 18A:12-11; 18A:12-15

Adopted: August 18, 2009



### **0144 – Board Member Orientation and Training**

The preparation of each member for the performance of Board of Education duties is essential to the proper functioning of the Board. The Board encourages each new Board member in the acquisition of information about school district governance, the separate functions of the Board and the Superintendent, the operations of the district, and Board procedures.

The Board directs that each new member receive access to or a copy of: the Board of Education Bylaw, Policy, and Regulation Manual; each negotiated agreement; the current budget statement and audit report; the most recent long range facilities plan; Professional Development Plan; the Board's, the District's, and the Superintendent's goals and objectives; and such other materials as deemed appropriate by the Superintendent.

Each new Board member will be invited and is encouraged to meet and discuss the responsibilities and authority of a Board member, Board functions, and Board policies and procedures with the Board President, the Superintendent, and the School Business Administrator/Board Secretary.

Each newly elected or appointed Board member shall complete during the first year of the member's first term a training program to be prepared and offered by the New Jersey School Boards Association, in consultation with the New Jersey Association of School Administrators, the New Jersey Principals and Supervisors Association, and the Department of Education, regarding the skills and knowledge necessary to serve as a Board member.

The training program shall include information regarding the school district monitoring system established pursuant to P.L. 2005, c. 235, the New Jersey Quality Single Accountability Continuum, and the five key components of school district effectiveness on which school districts are evaluated under the monitoring system: instruction and program; personnel; fiscal management; operations; and governance.

The Board member shall complete a training program on school district governance in each of the subsequent two years of the Board member's first term.

Within one year after each re-election or re-appointment to the Board of Education, the Board member shall complete an advanced training program to be prepared and offered by the New Jersey School Boards Association. This advanced training program shall include information on relevant changes to New Jersey school law and other information deemed appropriate to enable the Board member to serve more effectively.

The New Jersey School Boards Association shall examine options for providing training programs to Board members through alternative methods such as on-line or other distance learning media or through regional-based training.

Within one year after being newly elected or appointed or being re-elected or re-appointed to the Board of Education, a Board member shall complete a training program on harassment, intimidation, and bullying in schools, including a school district's responsibilities under P.L. 2002, c.83 (C.18A:37-13 et seq.). A Board member shall be required to complete the program only once. Training on harassment,



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intimidation, and bullying in schools shall be provided by the New Jersey School Boards Association, in consultation with recognized experts in school bullying from a cross section of academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies.

### Legal References

N.J.S.A. 18A:12-33; 18A:37-13 et seq.

Adopted: July 12, 2011



### **0145 – Board Member Resignation and Removal**

#### **Board Member Resignation**

If for reason of health, change in domicile, or any other compelling reason, a member does decide to terminate service, the Board requests earliest possible notification of intent to resign so that the Board may plan appropriately for this emergency.

#### **Board Member Removal from Office**

Whenever a member of a Board of Education shall cease to be a bona fide resident of the district, or if any constituent district of a consolidated or regional district which he/she represents, or shall become mayor or a member of the governing body of a municipality, his membership on the Board shall immediately cease. Any member who fails to attend three consecutive meetings of the Board without good cause may be removed from it, by a two-thirds majority vote of the full Board. Such vote may be called by the President or a simple majority of the full Board.

#### **Legal References**

N.J.S.A. 18A:12-2; 18A:12-3; 18A:12-29

N.J.S.A. 19:27A-1 et seq.

Adopted: August 18, 2009



### **0146 – Board Member Authority**

A Board member does not possess individually the authority and powers that reside in the Board of Education. No Board member by virtue of his/her office shall exercise any administrative responsibility with respect to the operation of the school district or as an individual command the services of any school district employee.

#### **Release of Information**

Board member access to public, personnel, and pupil records shall be governed by law and by the provisions of Board Policies #8310 - Public Records, #8320 - Personnel Records, and #8330 - Pupil Records.

Confidential information to which a Board member becomes privy as a result of his/her office shall be used only for the purpose of helping the member discharge his/her responsibilities as Board member. No Board member shall reveal information contained in a confidential record or received during a duly convened private session of the Board except when that information has been released to the public by the Board.

#### **Public Expressions**

Board members are entitled to express themselves publicly on any matter, including issues involving the Board and the school district, in accordance with Board Policy #9400 - News Media Relations. Individual Board members cannot, however, express the position of the Board except as expressly authorized, in accordance with Board Policy #9120 - Public Information Program. A Board member shall not represent his/her personal opinion as the position of the Board and shall include in all formal expressions in which his/her Board affiliation is likely to be recognized, such as letters to government officials or newspapers, speeches to organizations, and the like, a statement that the opinions expressed do not necessarily represent those of the Board.

All public statements in the name of the Lopatcong Township Board of Education shall be issued by the Board President, or if appropriate by the Superintendent at the direction of the Board President. No individual Board member shall make public statements in the name of the Board.

Board members visiting a school shall comply with district policy and procedures for school visitors.

Members of the Board shall adhere to the Code of Ethics for Board members in [Board Bylaw #0142 – Board Member Qualifications, Prohibited Acts and Code of Ethics](#).

#### **Legal References**

N.J.S.A. 18A:11-1

Adopted: August 18, 2009

Revised: November 9, 2010



### **0148 – Board Member Indemnification**

The Board of Education will indemnify Board members in accordance with law whenever a civil, administrative, criminal or quasi-criminal action or other legal proceeding is brought against a Board member for any act or omission arising out of and in the course of the performance of his/her duties as Board member. In the case of a criminal or quasi-criminal action which results in a final disposition in favor of the Board member, the Board will defray all costs of defending the action, including reasonable counsel fees and expenses, together with costs of appeal, and will save harmless and protect the Board member from any financial loss resulting from the action. Indemnification for exemplary or punitive damages is not required and will be governed by the standards and procedures set forth in N.J.S.A. 59:10-4.

The Board may arrange for and maintain appropriate insurance to cover all such damages, losses and expenses.

#### **Legal References**

N.J.S.A. 18A:11.1; 18A:12-20; 18A:16-6;

N.J.S.A. 18A:16-6.1; 18A:18A-46; 18A:18A-47

Adopted: August 18, 2009



### **0151 – Organization Meeting**

The Board of Education shall organize annually at a regular meeting held for that purpose usually on the fourth Tuesday in April.

The meeting shall be called to order by the Board Secretary, who shall serve as presiding officer pro tempore until the election of a President.

The Board Secretary shall administer the oath of office to new Board members.

#### **Legal References**

N.J.S.A. 18A:10-3; 18A:10-5

N.J.S.A. 41:1-1; 41:1-3

Adopted: November 10, 2009



### **0152 – Board Officers**

The organizational meeting shall be called to order by the Board Secretary or his/her designee as temporary chairperson. The Board shall organize by electing one of its members as president who shall immediately become permanent chairperson; the Board shall elect a vice-president.

#### **Officers:**

1. shall serve for one year and until their respective successors are elected and shall qualify;
2. may be removed by a majority vote of the full membership of the Board should either officer refuse to perform the duties of his or her office. (18A:15-2)

In case the office of president or vice-president shall become vacant, the Board shall, within thirty days thereafter, fill the vacancy for the unexpired term. (18A:15-2)

#### **Legal References**

N.J.S.A. 18A:15-1; 18A:15-2

Adopted: August 18, 2009



### **0153 – Annual Appointments**

The Board of Education may appoint at the re-organizational meeting, but shall appoint before July 1 of the year in which the Board organizes:

1. A Board Secretary, N.J.S.A. 18A:17-2, 17-5;
2. A Treasurer of School Moneys, N.J.S.A. 18A:17-31;
3. A public school accountant, N.J.S.A. 18A:23-1;
4. A medical inspector, N.J.S.A. 18A:40-1;
5. A Board Attorney, N.J.S.A. 18A:46-11;
6. A member to serve as delegate to the New Jersey School Boards Association, N.J.S.A. 18A:6-46;
7. An attendance officer, N.J.S.A. 18A:38-32;
8. A member to serve as delegate to the Warren County School Boards Association; and
9. An insurance broker.

Adopted: August 18, 2009



### **0154 – Annual Motions and Designations**

The Board of Education shall at the organizational meeting:

1. Designate one or more depositories for school funds, N.J.S.A. 18A:17-34;
2. Designate those persons authorized to sign school warrants, N.J.S.A. 18A:19-1;
3. Designate the official newspaper, N.J.S.A. 18A:22-11; 18A:39-3;
4. Designate a second newspaper for the publication of Board meetings, N.J.S.A. 10:4-8;
5. Designate the day, place, and time for regular meetings of the Board;
6. Approve the curriculum for all grades;
7. Readopt existing bylaws and policies for the Board's operation and the operation of the school system.

Adopted: August 18, 2009



### **0155 – Board Committees**

The Board of Education authorizes the creation of committees of Board members charged to conduct studies, make recommendations to the Board, and act in an advisory capacity. Committees are not authorized to take action on behalf of the Board.

The President shall appoint Board members to serve a one-year term on the following Board standing committees:

1. Policy;
  - a. Constantly reviews current policies to ensure they are current with applicable laws and provide sufficient guidance in managing the school district.
  - b. Develops new policies or amends current policies, as needed.
2. Finance;
  - a. In preparation for the annual budget process, reviews anticipated costs (e.g., salaries, benefits, facilities, operations, tuition) and revenues (e.g., State and Federal aid and grants, tax revenues, tuition).
  - b. To provide the most cost-effective education, reviews requests for changes in funding for staff, programs, equipment, and facilities while recognizing its responsibility to balance the educational needs of the children and cost impact on the taxpayer.
  - c. In consultation with the administration, prepares the annual budget and supporting documentation for presentation to the full Board and public, and approval by the Board.
  - d. To responsibly plan for the future, recommends funding for various accounts based projected needs and excess surplus funds, including Capital and Tuition Reserve accounts.
  - e. To ensure sound fiscal management, reviews the annual audit and recommends the appointment of the auditor.
3. Education;
  - a. Reviews and evaluates issues relating to curriculum development adoption and evaluation.
  - b. Reviews the recommendations of the administration for the development of courses of study, adoption or elimination of courses of study, Curriculum Guides, and the purchase of textbooks and other instructional equipment and materials.
  - c. Reviews and understands the effectiveness of the instructional program, the delivery of instruction and the utilization of instructional materials.
  - d. Monitors the availability and effective use of district resources needed for the proper implementation of the instructional program.
  - e. Maintains an awareness of the articulation between buildings.



- f. Reviews and evaluates educational issues pertaining to staff (e.g., teaching assignments) and employment issues (e.g., tenure).
  - g. Monitors the effectiveness of district staff development.
  - h. Reviews and updates job descriptions for teaching and teaching support staff members.
  - i. Monitors and reviews the criteria and procedures for the hiring and retention of teaching and teaching support staff.
  - j. Monitors and reviews the standards and practices for teaching and teaching support staff evaluation.
4. Ad Hoc;
- a. Investigates and makes recommendations to the Board on issues that don't fit within the responsibilities of other committees, as directed by the Board President.
5. Facilities/Technology; and
- a. Monitors the state of the school district's buildings and grounds, infrastructure and equipment.
  - b. Reviews the required and desired major repair of the buildings, infrastructure and equipment, and recommends priorities to the full Board.
  - c. Reviews the current and future use of and need for new technologies to support the educational program (e.g., computers, servers, network infrastructure, Smart Boards, audio and video equipment).
  - d. Provides input to, and reviews, the Long-Range Facilities Plan (LRFP) and the three-year Technology Plan.
6. Negotiations.
- a. Negotiates the contract with the Lopatcong Education Association, including amendments and side-bar agreements.
  - b. Reviews and updates job descriptions for non-teaching and non-teaching support staff members, including custodial and administrative staff, and administrators.
  - c. Reviews and recommends to the Board contracts for non-association staff members, including administrators, and the Superintendent.
  - d. Reviews and recommends to the Board contracts for the solicitor and for the delivery of educational services.
  - e. Investigates, prepares, and recommends to the Board contracts for shared services.

Additional ad hoc committees may be created and charged at any time by the President or a majority of the Board members present and voting. These committees will be charged with a specific, short-term purpose/task and will be disbanded once that purpose/task has been completed. The President shall



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appoint members to any committee so created and charged; members shall serve until the committee is discharged.

Committees shall consist of no more than four Board members, one of whom shall be the President, who shall serve as ex-officio member on all Board committees. A member may request or refuse appointment to a committee; a member's refusal to serve on any one committee shall not prejudice his/her appointment to another committee.

The Board reserves the right to meet and work as a Committee of the Whole in informational, discussion, and exploratory sessions. No official action shall be taken at these meetings, unless so advertised.

A chairperson for each committee shall be appointed by the President.

Committee meetings may be called at any time by the committee chairperson or when a meeting is requested by a majority of the members of the committee.

Committee meetings shall not be open to the public, except that a majority of the committee or the chairperson may open the meeting to the public or invite persons whose knowledge or expertise may be useful to the committee.

Adopted: August 18, 2009  
Revised: June 29, 2010



### **0157 – Board of Education Website**

For the purposes of keeping the community informed, the Board authorizes the Director of Technology, or his/her webmaster designee, to coordinate and oversee a school district website to be maintained on the Internet. All items to be posted on the website shall be approved by the Director of Technology or webmaster prior to posting. In the event the Director of Technology or webmaster finds certain material that is submitted to be posted, should not be posted, the Director of Technology or webmaster shall seek approval of the Superintendent prior to posting such material. In the event the Superintendent, upon review of the material from the Director of Technology or webmaster believes the material should not be posted on the website, the material shall not be posted.

The types of information that may be posted on the website include, but are not limited to:

- Board Meeting public agendas;
- Board Meeting approved minutes;
- Board of Education policies;
- Board of Education meeting dates;
- School District Newsletter Information (if applicable);
- Information regarding school times, closings, procedures, schedules;
- School Administration Information;
- Job postings;
- Test score information from the School Report Card;
- School budget information;
- School E-Mail information;
- Information about Administrators salaries as required by law; and
- Any other information the Superintendent or the Board determines appropriate for posting on the website.

Materials containing political or editorial points of view shall be prohibited from the website.

The Board and Superintendent shall periodically, but no less frequently than annually, evaluate the effectiveness of the school district website and this Policy. A survey of parents, teachers, and pupils may be conducted to assist in this evaluation.

### **Legal References**

N.J.S.A. 18A:11-1

Adopted: August 18, 2009



### **0161 – Call, Adjournment and Cancellation**

The Board of Education shall meet in public session at least once every month during the period in which the schools are in session.

All regularly scheduled meetings shall normally be called advertised to commence not later than 7:00pm, allowing for a grace period of no more than fifteen minutes, of the day designated. However, the Board Secretary may change the advertised start time of a regularly scheduled meeting at the direction of the Board President to accommodate the needs of Board members or other participants in the meeting. If a voting majority of the full Board is not present, the President or a simple majority of Board members present, may decide to recess until no later than two hours after the advertised start time for the meeting, 9:00pm or cancel the meeting, see [Board Bylaw #0163 – Quorum](#).

A meeting not regularly scheduled may be called by the Board Secretary at the request of the Board President or upon the presentation to the Board Secretary of a petition requesting a meeting and signed by a majority of the full Board. Due to the nature of special meetings, they may be scheduled on a different day of the week than regularly scheduled meetings and start at a different time.

The Board may at any time recess or adjourn to an adjourned meeting at a time, date, and place announced before the adjournment takes place. The adjourned meeting shall take up its business at the point in the agenda where the motion to adjourn was passed.

When circumstances are such as to prevent the attendance of a majority or all of Board members or to frustrate the purpose of the meeting, a meeting may be canceled by the Board Secretary at the request of the President. Notice of the cancellation shall be given, by expedient means, to all Board members, to the Superintendent, and, whenever possible, to the newspapers in which notice of Board meetings is regularly given. If possible, written notice of the cancellation shall also be posted at the place where the canceled meeting was scheduled to occur. Notice of the cancellation shall include the date, time, and place of the next scheduled meeting. Notice of the cancellation shall be read at the next following Board meeting and shall be duly recorded in the official minute book.

#### **Legal References**

N.J.S.A. 18A:10-6

N.J.A.C. 6A:32-3.1

Adopted: August 18, 2009



### **0162 – Notice of Board Meetings**

The Board of Education will give notice of all meetings in accordance with law.

#### **Public Notice**

The Board Secretary shall notify, in writing and no later than forty-eight hours in advance of the meeting, each Board member and each person who has duly requested such notification of the time, date, location, and, to the extent it is known, the agenda of any regular, special, or rescheduled meeting. Forty-eight hour notice shall also be posted in the Board office and at both schools, delivered to two newspapers designated by the Board on the district website, and filed with the clerk of Lopatcong Township, except that forty-eight hour notice is not required where the time, date, and location of the meeting has been published in the annual list of meetings approved by the Board in accordance with law.

Upon the affirmative vote of three-quarters of the members present, the Board may meet in the absence of adequate notice, provided that discussion and action is limited to specific and unforeseen or unforeseeable matters of such urgency and importance that delay for the provision of notice would be likely to result in substantial harm to the public interest and that notice is given as soon as possible after the call of the meeting in accordance with the provisions of law and this bylaw.

#### **Personal Notice of Meeting**

The Board shall provide personal notice in writing to, the parent(s) or legal guardian(s) of a minor pupil, an employee or officer of this district (Rice Notice), or a prospective employee whose privacy may be invaded or whose employment may be affected by the Board's deliberations in private session. Such personal notice will include the date and time of the private meeting, the subject or subjects scheduled for discussion at the private meeting, and the right of the individual given notice to request that the discussions be conducted at a public meeting. Personal notice will be given no less than seventy-two hours in advance of the private meeting.

A written request for public discussion must be signed by the person making the request and must be submitted to the Board Secretary prior to the commencement of the meeting. Any such properly submitted request will be granted. In the event that one or more, but fewer than all, of a group of persons whose employment will be discussed request a public meeting, the discussion regarding the person or persons who have submitted the request will be severed from the rest and will be conducted publicly.

A discussion held in public by reason of the written request of an individual will be conducted at a regularly scheduled meeting for which annual notice has been given or at a meeting for which adequate public notice has been given in accordance with law.

Nothing in this bylaw will permit an employee to request or the Board to grant the public discussion of tenure charges or permit the public disclosure of information regarding a disabled pupil.



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### Legal References

N.J.S.A. 10:4-6 et seq.; 10:4-8d; 10:4-9b

N.J.S.A. 18A:6-11; 18A:10-6

N.J.A.C. 6A:32-3.1

Adopted: August 18, 2009



### **0163 – Quorum**

A quorum shall consist of five Board members, and no business shall be conducted in the absence of a quorum.

In the event a quorum is not present at the hour of convening, the meeting may be recessed to a time not later than 9:00pm, two hours after the advertised start time of the same day or cancelled at the direction of the Board President or a simple majority of the Board members present. If after a recess a quorum is not then present, the members present may adjourn the meeting to a later date within seven days.

The Board of Education recognizes that there may be matters that come before the Board or acts required of Board members in their official capacity where the Board member may have a conflict of interest or the act would be in violation of N.J.S.A. 18A:12-24. In these matters, the Board member(s) will remove himself/herself from any discussions, executive sessions, committee meetings, and/or a vote regarding the matter. The Board will consider this matter without the Board member(s) who has the conflict. However, the Board member with a conflict may remain in a public meeting.

In the event a matter comes before the Board or an act is required of a Board member in his/her official capacity that is a conflict or would be in violation of N.J.S.A. 18A:12-24, the Board would still be required to have a quorum to consider the matter. However, the New Jersey Department of Education and the School Ethics Commission has envisioned this prohibition could create a situation in which so many Board members have a conflict, that the Board would be unable to take action on a matter. Therefore, when more than a quorum of the Board members must abstain from voting on a matter, if required, the Board will invoke the Doctrine of Necessity consistent with the New Jersey Department of Education and School Ethics Commission guidelines as follows:

#### **A. Board Member(s) in Conflict - Less Than a Majority of The Board**

1. In the event a Board member(s) has a conflict of interest where the Board member will act in his/her official capacity, the Board member must remove himself/herself from any discussions, executive sessions, committee meetings, and/or a vote regarding the matter.
2. In the event a Board member is unsure whether he/she or any other Board member has a conflict of interest or whether the matter, if acted upon by a Board member(s) is in violation of N.J.S.A. 18A:12-24 - Prohibited Acts, the School Board Attorney may be consulted.
3. The School Board Attorney may provide the Board of Education an opinion on whether the matter is a conflict of interest or act prohibited by N.J.S.A. 18A:12-24 - Prohibited Acts.
4. If the Board member(s) believes he/she has a conflict of interest where he/she will act in his/her official capacity or if the School Board Attorney renders an opinion that the Board member has a conflict of interest where the Board member will act in his/her official capacity, the Board member will remove himself/herself from any discussions, executive sessions, committee meetings, and/or a vote regarding the matter.



### **B. A Majority of Board Members in Conflict**

1. In the event:
  - a. A Board member(s) believes he/she has a conflict of interest where he/she will act in his/her official capacity; or
  - b. If the School Board Attorney renders an opinion that the Board member(s) has a conflict of interest where the Board member will act in his/her official capacity; and
  - c. The number of Board members that have a conflict would make it so the Board would be unable to take action on the matter, then the Board may invoke the “Rule [or Doctrine] of Necessity.” (Citing *U.S. v. Will*, 449 *U.S.* 200 (1980)).

### **C. Rule [Or Doctrine] Of Necessity**

1. The Doctrine of Necessity may be invoked when more than the number of Board members of the Board required to act must abstain from voting on a matter.
2. There are three prerequisites necessary for a Board to invoke the Doctrine of Necessity:
  - a. The Board must be unable to act without the members in conflict taking part;
  - b. There must be a pressing need for action, i.e. the matter cannot be laid aside until another date; and
  - c. There can be no alternative forum that can grant the same relief. (*Allen v. Toms River Regional Board of Education*, 233 *N.J. Super* 651 (Law Division 1989).
3. When the Board the Doctrine of Necessity must be invoked in order to obtain a quorum on a vote, the Board must announce that it is invoking the Doctrine.
  - a. The announcement must include the reason the Board must invoke the Doctrine of Necessity including stating the nature of each Board members conflict.
  - b. The announcement will be in writing and should be recorded in the minutes of the meeting by the Board Secretary at the point when the vote takes place.
  - c. It is enough for the Board to announce it is invoking the Doctrine and a Board Resolution is not required.
4. When the Board announces the Doctrine of Necessity is being invoked, the details, parameters and/or other pertinent facts of the matter to be voted should be revealed on an agenda for the public meeting in which the matter is to be voted upon, if known in advance.
5. The Board members who have a conflict in the matter are prohibited from:
  - a. Participating in any discussions on the matter prior to the announcement and public meeting; and
  - b. From entering an executive session in order to discuss the merits of the matter or contract; and
  - c. From offering their opinions on the matter at any time prior to the announcement and public meeting.



6. The Board members who have a conflict in the matter may only participate to the extent they may vote after the motion to approve and/or ratify the matter has been made and seconded and the Doctrine of Necessity has been thoroughly explained to the public.
7. Board members in conflict may only ask questions regarding the matter to be voted on in public and after the Board has invoked the Doctrine of Necessity.
8. Board members in conflict may explain their reasons for not voting just before the vote.

### Legal References

N.J.S.A. 18A:12-24

New Jersey School Ethics Commission Advisory Opinion

A10-93(b) and A07-94

Adopted: August 18, 2009



### **0164 – Conduct of Board Meetings**

#### **Parliamentary Authority**

Roberts' Rules of Order, Newly Revised, shall govern the Board of Education in its deliberations and acts in all cases in which it is not inconsistent with statutes of the State of New Jersey, rules of the State Board of Education, or these bylaws.

#### **Presiding Officer**

The President shall preside at all meetings of the Board. In the absence, disability, or disqualification of the President, the Vice President shall act in his/her place; if neither person is present, any member shall be designated by a plurality of those present to preside. The act of any person so designated shall be legal and binding.

#### **Announcement of Adequate Notice**

The person presiding shall commence each meeting with an announcement of the notice given for the meeting or a statement regarding the lack of adequate notice, in accordance with law.

#### **Agenda**

The Superintendent and School Business Administrator/Board Secretary, in consultation with the Board President, shall prepare an agenda of items of business to come before the Board at each meeting. The agenda shall be delivered to each Board member typically no later than two days before the meeting and shall typically include such reports and supplementary materials as are appropriate and available.

The order of business shall be as follows:

- Call Meeting to order, Flag Salute, Opening Statement
- Roll call
- Reading of the Mission Statement
- Correspondence
- Minutes
- Public Comment on agenda items
- New Business – Action Items
- Administrator's Report
- Representative Information from Phillipsburg Board of Education
- Legislative Update
- Committee Reports
- Other Items of Emergent Nature
- Other Public Comments
- Executive Session (if needed)
- Adjournment



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However, the Superintendent and/or President and Board Secretary, may schedule an executive session prior to the public session, if required.

### Legal References

N.J.S.A. 10:4-10

N.J.S.A. 18A:16-1.1

Adopted: August 18, 2009



### **0165 – Voting**

All Board of Education actions requiring a vote may be conducted by voice, show of hands, or roll call provided that the vote of each member is recorded in the minutes of the meeting. Proxy voting shall not be permitted.

Abstentions shall not be counted as votes but shall be recorded; a member who abstains from voting is deemed to acquiesce in the outcome of the vote.

All motions shall require for adoption the majority vote of Board members present and voting, except as provided by statutes of the State of New Jersey, this bylaw, or parliamentary authority and provided that the number of affirmative votes is at least a majority of the Board's quorum.

1. The affirmative votes of three-quarters of the members present are required for the conduct of a Board meeting when adequate notice has not been provided in accordance with law, N.J.S.A. 10:4-9;
2. A two-thirds vote of the full membership of the Board is required for:
  - a. Bids that have been advertised pursuant to N.J.S.A. 18A:18A-4 on two occasions and;
    - (1) No bids have been received on both occasions in response to the advertisement; or
    - (2) The Board of Education has rejected such bids on two occasions because it has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the Board of Education prior to the advertising therefore, or have not been independently arrived at in open competition; or
    - (3) On one occasion no bids were received pursuant to (1) and on one occasion all bids were rejected pursuant to (2), in whatever sequence; any such contract may then be negotiated.
  - b. Purchase of goods also available under state contract when the Board has received at least three quotations and the lowest responsible quotation is at least ten percent less than the price under the state contract for the identical goods and quantities, N.J.S.A. 18A:18A-5.e;
  - c. Determine that it is necessary, in a Type II school district having a Board of School Estimate, to sell bonds to raise money for any capital project, N.J.S.A. 18A:22-27; and
  - d. Sell bonds of a Type II district without further advertisement at private sale if no legally acceptable bid is received for the bonds pursuant to N.J.S.A. 18A:24-45.
3. A majority vote of the full membership of the Board is required for:
  - a. Admission after October 1 of a pupil who has never attended school, N.J.S.A. 18A:38-6;
  - b. Adoption or alteration of a course of study, N.J.S.A. 18A:33-1;
  - c. Application for membership in an established county audiovisual aid center, N.J.S.A. 18A:51-11;



- d. Appointment of a Superintendent, N.J.S.A. 18A:17-15; School Business Administrator, N.J.S.A. 18A:17-14.1; Board Secretary, N.J.S.A. 18A:17-5; Assistant Board Secretary, N.J.S.A. 18A:17-13; Administrative Principals, N.J.S.A. 18A:17-20.5; and Shared Superintendent or School Business Administrator, N.J.S.A. 18A:17-24.3. Appointment and removal of Assistant Superintendent(s), N.J.S.A. 18A:17-16 and appointment, salary, and removal of Business Manager in Type I school district, N.J.S.A. 18A:17-25.
  - e. Appointment, transfer, removal and/or renewal of teaching/certificated and/or non-certificated staff members, N.J.S.A. 18A:25-1, 27-1;
  - f. Fix and determine, in a Type II district having no Board of School Estimate, the amount of money to be raised for budgets and capital construction, N.J.S.A. 18A:22-32, 22-39;
  - g. Approval of employee salary deductions for hospital and insurance plans and government bonds, N.J.S.A. 18A:16-8;
  - h. Authorization, in Type II school districts, of school bonds, N.J.S.A. 18A:24-10;
  - i. Decision to establish with other school districts a county audiovisual educational aid center, N.J.S.A. 18A:51-1;
  - j. Determination of sufficiency of charges warranting dismissal or reduction in salary of a tenured employee, N.J.S.A. 18A:6-11;
  - k. Disposition or exchange of lands owned by the Board, N.J.S.A. 18A:20-5, 20-8;
  - l. Purchase of bonds or other obligations as investments, N.J.S.A. 18A:20-37;
  - m. Removal of the President or Vice President of the Board, N.J.S.A. 18A:15-2;
  - n. Restoration or removal following suspension of an Assistant Superintendent, Principal, or teacher, N.J.S.A. 18A:25-6;
  - o. Selection of textbooks, N.J.S.A. 18A:34-1;
  - p. Withholding a salary increment, N.J.S.A. 18A:29-14;
  - q. Direct the Secretary of the Board to deduct salaries of employees to participate in any plan for the purchase of bonds of the United States government, N.J.S.A. 18A:16-8;
  - r. Appointment and salary of Executive Superintendent in district in city of the first class with a population over 325,000 have a unit control organizational structure.
4. A roll-call vote of the Board is required for the following actions with the necessary vote as indicated:

Issue	Required Vote
a. Salary deductions for government bonds N.J.S.A. 18A:16-8	Majority of full Board
b. Appointment of a secretary of Board of Education; terms; compensation; vacancy N.J.S.A. 18A-17-5	Majority of full Board



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	<b>Issue</b>	<b>Required Vote</b>
c.	Assistant and acting secretaries; appointment, powers and duties N.J.S.A. 18A:17-13	Majority of full Board
d.	Appointment of Superintendents; terms; apportionment of expense N.J.S.A. 18A:17-15	Majority of full Board
e.	Appointment and removal of Assistant Superintendents N.J.S.A. 18A:17-16	Majority of full Board
f.	Appointment of Administrative Principals N.J.S.A. 18A:17-20.5	Majority of full Board
g.	Appointment of shared Superintendent, School Business Administrator; terms N.J.S.A. 18A:17-24.3	Majority of the membership of each Board
h.	Appointment; salary; removal of Business Managers N.J.S.A. 18A:17-25	Majority of full Board
i.	Unit control organizational structure; Executive Superintendent N.J.S.A. 18A:17A-1	Majority of full Board
j.	Disposition of property N.J.S.A. 18A:20-5	Majority of full Board
k.	Exchange of lands N.J.S.A. 18A:20-8	Majority of full Board
l.	Type II districts with Board of School Estimate; determination; certification and raising of appropriations; notice of appeal N.J.S.A. 18A:22-26	Majority of full Board
m.	Type II districts with Boards of School Estimate; estimate by Board of Education; certification of estimate N.J.S.A. 18A:22-27	Two thirds of full membership of Board
n.	Determination of amounts by Board of School Estimate N.J.S.A. 18A:22-31	Board of School Estimate majority of full Board
o.	Type II districts without Board of School Estimate; determination and certification of appropriation N.J.S.A. 18A:22-32	Majority of full Board



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p.	Type II districts without Board of School Estimate; submission of capital projects N.J.S.A. 18A:22-39	Majority of full Board
q.	School bonds, when deemed to be authorized Type II. N.J.S.A. 18A:24-10	Majority of full Board
r.	Private sale if no bids at public sale N.J.S.A. 18A:24-45	Two thirds of full membership of Board
s.	Transfer of teaching staff member N.J.S.A. 18A:25-1	Majority of full Board
t.	Suspension of Assistant Superintendents, Principals and teaching staff members N.J.S.A. 18A:25-6	Majority of membership
u.	Appointment of teaching staff members; vote required N.J.S.A. 18A:27-1	Majority of full Board
v.	Board of Education, procedure for certain personnel actions; recommendation of the Superintendent N.J.S.A. 18A:27-4.1	Majority of full Board
w.	Renewal of personnel N.J.S.A. 18A:27-4.1	Majority of full Board
x.	Withholding increments; causes notice of appeals N.J.S.A. 18A:29-14	Majority of full Board
y.	District to furnish suitable facilities; adoption of courses of study N.J.S.A. 18A:33-1	Majority of full Board
z.	Textbooks; selection; furnished free with supplies; appropriations N.J.S.A. 18A:34-1	Majority of full Board
aa.	Single county educational audiovisual aids center in county N.J.S.A. 18A:51-11	Majority of full membership

### Legal References

N.J.S.A. 10:4-14

Adopted: August 18, 2009



### **0166 – Executive Sessions**

The Board of Education may meet in a private session only to discuss and act on issues exempted by law from the requirement that all Board meetings be public and only after the adoption at a public meeting of a resolution stating the general nature of the subject or subjects to be discussed and, as precisely as possible, the time when and circumstances under which the discussion conducted in private session can be disclosed to the public.

The Board may exclude the public only from that portion of a meeting at which the Board discusses:

1. Any matter that has been rendered confidential by express provision of federal or state law or rule of court;
2. Any matter in which the release of information would impair a right to receive funds from the Government of the United States;
3. Any material the disclosure of which constitutes an unwarranted invasion of a pupil's privacy, including but not limited to records, data, reports, or recommendations relative to the pupil's personal and family circumstances, treatment, progress or condition, unless the adult pupil or the pupil's parent(s) or legal guardian(s) requests in writing that the same be disclosed publicly;
4. Any Collective Bargaining Agreement, or the terms and conditions that are proposed for inclusion in any Collective Bargaining Agreement, including the negotiation of the agreement with school district employees or representatives of employees;
5. Any matter involving the purchase, lease, or acquisition of real property with public funds or the investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed;
6. Any tactics and techniques utilized in protecting the safety and property of the public when their disclosure could impair such protection and any investigations of violations or possible violations of the law;
7. Any pending or anticipated litigation or contract negotiation other than as stated in #4 in which the Board is or may become a party and any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his/her ethical duties as a lawyer;
8. Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the Board, unless the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting, except that, regardless of the employee's request, the consideration and actions of the Board as to any tenure charge shall be conducted in private session;
9. Any deliberations occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of the responding party's certification as a result of an act or omission for which the responding party bears responsibility.



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### Legal References

N.J.S.A. 10:4-12; 10:4-13

N.J.S.A. 18A:6-11

Adopted: August 18, 2009



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v1.0

### **0167 – Public Participation in Board Meetings**

The Board of Education recognizes the value of public comment on educational issues and the importance of allowing members of the public to express themselves on school matters of community interest.

In order to permit the fair and orderly expression of such comment, the Board shall provide a period for public comment at every regularly scheduled meeting of the Board.

Public participation shall be permitted only as indicated on the order of business in [Board Bylaw #0164 – Conduct of Board Meetings](#), or at the discretion of the Board President.

Public participation shall be extended to residents of this district, persons having a legitimate interest in the actions of this Board, persons representing groups in the community or school district, representatives of firms eligible to bid on materials or services solicited by the Board, and employees and pupils of this district, except when the issue addressed by the participant is subject to remediation by an alternate method provided for in policies or contracts of the Board.

Public participation shall be governed by the following rules, which may be waived at the discretion of the Board President;

1. A participant must be recognized by the presiding officer and must preface comments by an announcement of his/her name, place of residence, and group affiliation, if appropriate;
2. Each statement made by a participant shall be limited to five minutes' duration.
3. No participant may speak more than once on the same topic until all others who wish to speak on that topic have been heard;
4. All statements shall be directed to the presiding officer; no participant may address or question Board members individually;
5. The presiding officer may:
  - a. Interrupt, warn, or terminate a participant's statement when the statement is too lengthy, abusive, obscene, or irrelevant;
  - b. Request any individual to leave the meeting when that person does not observe reasonable decorum;
  - c. Request the assistance of law enforcement officers in the removal of a disorderly person when that person's conduct interferes with the orderly progress of the meeting;
  - d. Call for a recess or an adjournment to another time when the lack of public decorum so interferes with the orderly conduct of the meeting as to warrant such action; and
  - e. Waive these rules when necessary for the protection of privacy or the efficient administration of the Board's business.

Adopted: August 18, 2009



### **0168 – Recording Board Meetings**

The Board of Education directs the creation and maintenance of an official record of the formal proceedings of the Board and will permit the unofficial recording of Board meetings in accordance with this bylaw.

#### **Minutes**

The Board shall keep reasonably comprehensible minutes of all its meetings showing the time and place, the members present, the subject considered, the actions taken, the vote of each member, information sufficient to explain the actions taken, and any other information required to be shown in the minutes by law.

Minutes of public meetings shall be public records signed by the Board Secretary and filed in the Secretary's office in a minute book as the permanent record of the acts of this Board.

Minutes of executive meetings shall be filed in the Secretary's office in a place separate from the minute book until the time, if any, when the proceedings may be made public. At that time, the minutes shall be public records and shall be filed in the regular minute book.

The Secretary shall provide each Board member with a copy of the minutes no later than two days before the next regular Board meeting.

#### **Recording by the Public**

Any member of the public may record the proceedings of a public meeting of the Board in a manner that does not interrupt the proceedings, inhibit the conduct of the meeting, or distract Board members or other observers present at the meeting.

The Board will permit the use of audio tape recorder(s), still or movie camera(s), or videotape camera(s) only when written notice of such intended use has been given to the Board Secretary three business days in advance of the meeting. No more than three cameras may be in use at any time, and any camera must be operated in an inconspicuous location in the meeting room.

The presiding officer shall determine when any recording device interferes with the conduct of a Board meeting and may order that an interfering device be turned off and/or removed.

Any recording of a Board meeting that is made available to persons other than the maker of the recording and is set forth as a true and accurate record of that meeting must be open to inspection by the Board and may be copied by this Board at the Board's expense.

#### **Legal References**

N.J.S.A. 10:4-14

Adopted: August 18, 2009

Revised: February 9, 2010



### **0169 – Board Member Use of Electronic Mail/Internet**

The Board of Education is a public body as defined in the New Jersey Open Public Meetings Act, N.J.A.C. 10:4-6 et seq., and the Board and its members are required to comply with the provisions of this Act. It is the right of the public to be present at meetings of public bodies and to witness in full all phases of the deliberations, policy formulation, and decision-making. Board members acknowledge certain discussions between Board members, other than during a Board meeting, may be subject to the provisions of the Open Public Meetings Act.

The Board of Education is also subject to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. The Open Public Records Act requires public agencies/School Boards to make certain governmental records subject to public access. Board members may, by written and/or electronic mail (e-mail), communicate with each other and with certain school staff regarding the school district's public business. "Public business" means and includes all matters that relate in any way, directly or indirectly, to the performance of the public body's functions or the conduct of its business. Board members acknowledge these written communications may be classified as a governmental record and may be subject to public access pursuant to the Open Public Records Act.

In order to ensure the Board and/or individual Board members comply with the requirements of the Open Public Meetings Act and the Open Public Records Act, the following guidance is provided regarding certain discussions and written communications regarding the public business:

1. Written letters, e-mails, and supporting documents regarding school district matters written by Board members to other Board members or written by Board members to school staff, unless the subject matter is specifically exempt under the Open Public Records Law, are governmental records and are subject to public access. Based on the potential for improper/inappropriate disclosure and/or breach of confidentiality that may compromise the Board or Board member, these communications should not involve confidential matters, especially any matter the Board may discuss in executive/private session outside the presence of the public pursuant to the Open Public Meetings Act.
2. Written letters, internet (chat) discussions, e-mails, and supporting documents regarding the school district's public business written by Board members to other Board members shall not replace deliberations that would prevent the public from witnessing in full detail all phases of the Board's deliberations, policy formulation, and decision-making process in accordance with the intent of the Open Public Meetings Act. Therefore, Board members will not engage in any discussion among themselves of how they intend to vote on an issue to the extent it violates the Open Public Meetings Act, except at Board meetings.
3. Internet (chat) discussions or e-mail exchanges between Board members regarding the school district's public business may encourage multiple Board members to engage in a discussion with the potential that a quorum of the Board may be involved, or become involved, in such discussion. Therefore, Board members should refrain from such discussions among themselves.



In the event a Board member(s) fails to comply with the guidance of this Policy, the matter shall be referred to the Board President, who will meet and/or discuss the matter and this Policy with the Board member(s). The Board President may request the Board Attorney participate in this meeting and/or discussion.

### Legal References

N.J.S.A. 10:6-4 et seq.

N.J.S.A. 47:1A-1 et seq.

Adopted: August 18, 2009



### **0171 – Duties of Board President and Vice President**

#### **President**

The President shall preside at all meetings of the Board and shall perform other duties as directed by statute, State Department of Education regulations, and this Board. In carrying out these responsibilities, the President shall:

1. Sign the instruments, acts, warrants, bonds, notes, contracts, orders, and other legal instruments necessary to carry out State requirements and the will of the Board, for which the signature of the President is required (N.J.S.A. 18A:19-1);
2. Consult with the Superintendent on the Board's agendas;
3. Appoint Board committees and chairpersons;
4. Direct the Board Secretary to call such meetings of the Board as he/she may deem necessary upon at least two days notice (N.J.A.C. 6A:32-3.1);
5. Serve as an ex-officio member of all Board committees in accordance with [Board Bylaw #0155 – Board Committees](#);
6. Confer with the Superintendent on crucial matters which may occur between Board meetings;
7. Be responsible for the orderly conduct of all Board meetings.

As presiding officer at all meetings of the Board, the President shall:

1. Call the meeting to order at the appointed time;
2. Announce the business to come before the Board in its proper order;
3. Enforce the Board's policies relating to the order of business and the conduct of meetings;
4. Recognize persons who desire to speak, and protect the speaker who has the floor from disturbance or interference;
5. Explain what the effect of a motion would be if it is not clear to every member;
6. Restrict discussion to the question when a motion is before the Board; and
7. Answer all parliamentary inquiries, referring questions of law to the Board's attorney.

The President shall have the right, as other Board members have, to offer resolutions, to discuss questions, and to vote, and any other duties normally ascribed to this office.

#### **Vice President**

The vice president shall preside at board meetings in the absence of the president and shall perform such other duties as may be assigned by the board.

Adopted: August 18, 2009

Revised: November 9, 2010



### **0172 – Duties of Treasurer of School Monies**

The Treasurer of School Monies shall:

1. Receive and hold in trust all school monies, except monies from athletic events and pupil organization activities, and deposit them in the bank or banks designated by the Board, N.J.S.A. 18A:17-34;
2. Pay out school monies only on warrants made payable to the person entitled to receive payment and specifying the object for which it is issued and signed by the President, Secretary and Treasurer, N.J.S.A. 18A:19-1;
3. Receive school employee payrolls and a warrant for the full amount of each payroll certified by the President and Secretary, deposit the warrants in a separate payroll account, and issue individual checks drawn on such account to each employee, N.J.S.A. 18A:19-9, 19-10;
4. Give public notice when funds are on hand for payment of interest bearing warrants issued for which no funds were available, N.J.S.A. 18A:19-12;
5. Keep a record of monies received and paid out in books provided for that purpose and in accordance with a bookkeeping system prescribed by the State Board, N.J.S.A. 18A:17-35;
6. Pay over the balance of school funds on hand to his/her successor, N.J.S.A. 18A:17-35;
7. Render a monthly report to the Board giving a detailed account of all receipts, the amounts of all warrants issued, the accounts from which they were drawn and the balance in each account, N.J.S.A. 18A:17-36;
8. Render an annual report showing the amounts received and disbursed by him/her during the school year and file a copy with the County Superintendent, N.J.S.A. 18A:17-36; and
9. Receive the proceeds of any bond sale and disburse them only to pay the expenses of issuing and selling the bonds, the purpose for which the bonds were issued, and the temporary investment of the funds, N.J.S.A. 18A:24-47.

Adopted: August 18, 2009



### **0173 – Duties of Public School Accountant**

The Board will engage only a licensed public school accountant to conduct the annual audit in accordance with N.J.S.A. 18A:23-1 et seq. The accountant must have an external peer/quality report performed in accordance with N.J.A.C. 6A:23A-16.2(i)1., unless the accountant or firm can show good cause as to why there was a delay completing such report within the required timelines established by Government Auditing Standards issued by the Comptroller General of the United States. The Board will require the submission of the most recent external peer/quality report for review and evaluation prior to the appointment of the licensed public school accountant. The Board will acknowledge the receipt, review, and evaluation of the external peer/quality report in the public session and Board minutes in which the accountant or firm to perform the audit is engaged.

The Board will require the submission of an updated external peer/quality report of the accountant within thirty days after the issuance date of the external peer/quality report if the report is issued prior to the date of the audit opinion for the most recent fiscal year.

In accordance with NJOMB Circular Letter 98-07, the public school accountant will provide a copy of the most recent external peer/quality report to the Department of Education, within thirty days after the initial engagement by the Board and within thirty days after the issuance of a subsequent peer/quality report.

The Board shall engage a public school accountant during the audit engagement period for non-auditing, management, or other consulting services only if such services comply with the independent standards as established in Government Auditing Standards (Yellow Book) by the Comptroller General of the United States.

The Board may be prohibited for good cause by the Commissioner of Education from engaging a particular licensed public school accountant, or may be directed by the Commissioner on a process to be used in the appointment of a licensed public school accountant pursuant to N.J.A.C. 6A:23A-16.2(i)4.

The public school accountant will complete the annual audit as required by the Department of Education and N.J.S.A. 18A:23-2. Each annual audit shall include an audit of the books, accounts and moneys, and verification of all cash and bank balances of the Board and of any officer or employee and of moneys derived from athletic events or other activities of any organization of pupils conducted under the auspices of the Board, from the date of the last annual audit to the date of the current audit. The audit will also include a determination of the extent to which the district used contracts entered into by the State Division of Purchase and Property pursuant to P.L. 1969 c. 104 (C. 52:25-16.1 et seq.) in the purchase of materials, supplies or equipment for the district. The report of each audit will be completed in accordance with the time requirements of N.J.S.A. 18A: 23-1 and will be filed by the public school accountant in accordance with N.J.S.A. 18A:23-2.3.

Within thirty days following receipt of the report the Board, at a regularly scheduled public meeting, will cause the recommendations of the accountant to be read and discussed and the discussion will be duly noted in the Board meeting minutes in accordance with N.J.S.A. 18A:23-5. The Board Secretary



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will prepare or have prepared a summary of the annual audit for this board meeting in accordance with N.J.S.A. 18A:23-4.

### Legal References

N.J.S.A. 18A:23-1 et seq.

N.J.A.C. 6A:23A-16.2 et seq.

Adopted: August 18, 2009

Revised: November 9, 2010



### **0174 – Legal Services (M)**

In accordance with N.J.A.C. 6A:23A-5.2, the Board of Education adopts this Policy and its strategies to ensure the use of legal services by employees and the Board of Education members and the tracking of the use of legal services.

The Board of Education authorizes the Board President, Superintendent, and School Business Administrator/Board Secretary as designated contact persons to request services or advice from contracted legal counsel.

The School Business Administrator/Board Secretary shall be responsible for the review of all legal bills and to confer with designated contact persons in reviewing such legal bills. In accordance with the provisions of N.J.A.C. 6A:23A-5.2(a)2, the Board designates the School Business Administrator/Board Secretary to review all legal bills and directs that the contact persons ensure the prudent use of legal services. The Board of Education authorizes the establishment of the following procedures to guide such solicitation of legal advice:

1. The designated contact persons shall ensure that contracted legal counsel is not contacted unnecessarily for management decisions or readily available information contained in district materials such as Board policies, administrative regulations, or guidance available through professional source materials.
2. All requests for legal advice shall be made to a designated contact person in writing and shall be maintained on file in the district offices. The designated contact person shall determine whether the request warrants legal advice or if legal advice is necessary.
3. The designated contact persons shall maintain a log of all legal counsel contact including the name of the legal counsel contacted, date of the contact, issue discussed, and length of contact.
4. All written requests for legal advice and logs of legal counsel contacts shall be forwarded to the School Business Administrator/Board Secretary, who shall be responsible to review all legal bills and compare all legal bills to the contact logs and to investigate and resolve any variances.

Any professional services contract(s) for legal services shall prohibit advance payments. Services to be provided shall be described in detail in the contract and invoices for payment shall itemize the services provided for the billing period. Payments to legal counsel(s) shall only be for services actually provided.

School districts are prohibited from contracting with legal counsel or using in-house legal counsel to pursue any affirmative claim or cause of action on behalf of district administrators and/or any individual Board members or pursuing any claim or cause of action for which the damages to be awarded would benefit an individual rather than the school district as a whole.

The Board of Education will annually establish prior to budget preparation, a maximum dollar limit for each type of professional service, including legal services. In the event it becomes necessary to exceed the established maximum dollar limit for the professional service, the Superintendent of Schools shall



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recommend to the Board an increase in the maximum dollar amount. Any increase in the maximum dollar amount shall require formal Board action.

Contracts for legal services will be issued by the Board in a deliberative and efficient manner that ensures the district receives the highest quality services at a fair and competitive price or through a shared service arrangement. This may include, but is not limited to, issuance of such contracts through a Request for Proposals (RFP) based on cost and other specified factors or other comparable processes. Contracts for legal services shall be limited to non-recurring or specialized work for which the district does not possess adequate in-house resources or in-house expertise to conduct.

### Legal References

N.J.A.C. 6A:23A-5.2

Adopted August 18, 2009

Revised: April 13, 2010



### **0175 – Contracts with Independent Consultants**

The Board of Education may from time to time engage the services of one or more independent contractors to advise and assist the Board in analyzing school district operations and preparing Board reports when those tasks cannot be performed as economically by district staff members.

Wherever possible, the Board will seek proposals from multiple sources before a contract with an independent consultant is entered. The Board will not contract with a Board member or the spouse, child, parent(s) or legal guardian(s), or sibling, in fact or in law, of a Board member as an independent consultant.

The Board will engage the services of an independent consultant only by written contract, which must specify the work to be accomplished by the consultant, the time within which the work is to be completed, and the fee that will be paid the consultant. An independent consultant engaged by the Board is neither agent nor employee of the Board and may represent the Board only as expressly authorized to do so in writing.

An independent consultant may have access to such school facilities and school district employees as may be reasonably required in the performance of the consultant's contract with the Board. Except as expressly permitted by the contract, any communication between the consultant and a district employee or community member regarding the work of the contract must be conducted through the Board or a designated school official.

Materials and reports generated and created by the independent consultant in the performance of his/her contract with the Board are and will remain the property of the Board and are subject to Board Policy #8310 - Public Records on public records.

Adopted: August 18, 2009



### **0176 – Collective Bargaining and Contract Approval/Ratification**

The Board recognizes a Board member and/or a member of his/her immediate family may be a member of, or salary is determined by, a labor bargaining unit, professional association and/or union that has an affiliation with a bargaining unit, professional organization and/or union within the school district. The Board member does not automatically violate N.J.S.A. 18A:24 by voting to approve and/or ratify this contract solely on the basis of his/her status or that of an immediate family member with respect to membership or representation by a different local affiliate of the same statewide association with whom the agreement is made provided the Board member's involvement with such local affiliate has not or appears to have not compromised the member's objectivity or independence of judgment.

In accordance with N.J.S.A. 18A:12-24, the Board member shall not participate in the collective bargaining process and/or serve on the negotiations committee representing the Board with this unit, association, and/or union. The Board member may be apprised of the terms of a tentative memorandum of agreement with this unit, association, and/or union in closed and/or open session only after a tentative memorandum of agreement has been reached. The Board member may vote during the public meeting to approve and/or ratify a contract with this bargaining unit, professional association and/or union.

The Board member shall not participate in any aspect of negotiations and/or vote to approve/ratify a tentative memorandum of agreement/contract ratification if the Board member has an immediate family who is a member of the bargaining unit, professional association and/or union within the school district. Under this circumstance, the Board member may only vote in the event the school Board attorney advises the Board the Doctrine of Necessity must be invoked in accordance with [Board Bylaw #0163 – Quorum](#).

In addition, the School Ethics Commission Decision A16-00 states a Board member may not participate in any aspect of negotiations and/or vote to approve/ratify a tentative memorandum of agreement/contract ratification if the Board member has a "relative" who is a member of the bargaining unit, professional association and/or union within the school district. Under this circumstance, the Board member may only vote in the event the school Board attorney advises the Board the Doctrine of Necessity must be invoked in accordance with [Board Bylaw #0163 – Quorum](#).

#### **Legal References**

N.J.S.A. 18A:12-21 et. seq.

New Jersey School Ethics Commission Advisory Opinion A02-00 and A16-00

Commissioner of Education Decision - In the Matter of Bruce White, Ewing Township Board of Education, Mercer County - June 1, 2000

New Jersey State Board of Education Decision - In the Matter of Frank Pannucci, Board of Education of Brick Township, Ocean County - March 3, 2000

Adopted: August 18, 2009



### **0177 – Professional Services (M)**

In accordance with N.J.A.C. 6A:23A-5.2, the Board of Education adopts this Policy and its strategies to minimize the cost of professional services.

The Board of Education will establish annually prior to budget preparation a maximum dollar limit for each type of professional service. In the event it becomes necessary to exceed the established maximum dollar limit for the professional services, the Superintendent shall recommend to the Board of Education an increase in the maximum dollar amount. Any increase in the maximum dollar amount shall require formal Board action.

Contracts for professional services will be issued by the Board in a deliberative and efficient manner that ensures the district receives the highest quality services at a fair and competitive price or through a shared service arrangement. This may include, but is not limited to, issuance of such contracts through a Request for Proposals (RFP) based on cost and other specified factors or other comparable processes. Contracts for professional services shall be limited to non-recurring or specialized work for which the district does not possess adequate in-house resources or in-house expertise to conduct.

Nothing in this Policy or N.J.A.C. 6A:23A-5.2 shall preclude the Board from complying with the requirements of any statute, administrative code, or regulation for the award of professional services contracts.

#### **Legal References**

N.J.A.C. 6A:23A-5.2

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Revised: April 13, 2010

