

POLICY

Board of Education

Bernards Township

File Code: 0130
BYLAWS

LEGAL BASIS FOR EDUCATION

The legal basis for education in the Bernards Township School District is vested in the will of the people as expressed in the Constitution of the State, the Statutes pertaining to education, court interpretation of the validity of these laws and the powers implied under them.

POWERS OF THE BOARD

The Board of Education shall act as the general agent of the State in carrying out the will of the people of its District in the matter of public education. It shall be responsible for carrying out certain mandatory laws, and shall consider, and accept or reject the provisions of the permissive laws. In all cases where the State laws do not provide or prohibit, the Board of Education shall consider itself the agent responsible for establishing and appraising the education activities.

DUTIES

The Board shall adopt broad general policies to guide its officers; employ able and qualified persons to carry out these policies and continually review the effectiveness of the school system. In fulfilling these three general duties, the Board of Education has certain more specific responsibilities:

- a. To select a Superintendent and support him/her in the discharge of his/her duties.
- b. To employ school personnel nominated and recommended by the Superintendent.
- c. To set salary schedules.
- d. To require and evaluate the reports of the Superintendent concerning the educational program of the school.
- e. To consider, revise and adopt an annual school budget recommended by the Superintendent of Schools.
- f. To consider and decide upon professional recommendations for expansion of school services, school buildings and school facilities.
- g. To assist in presenting to the public the needs and progress of the educational system.

- h. To provide by the exercise of its legal powers the funds necessary to finance the operation of the schools.
- i. To perform the specific duties imposed upon the Board by the Statutes of the State of New Jersey.

CANDIDACY

Candidates to be voted for at the annual school election for members of the Board of Education shall be nominated directly by petition and in accordance with the statutes.

LEGAL: 18A:14-9, 14-11

ELECTION

The Board shall consist of nine members. Three members of the Board shall be chosen at each annual school meeting and shall hold office for the term of three years.

LEGAL: 18A:14-2, 14-4, 14-9, 14-45, 14-58

OATHS

A member of the Board shall, before entering upon the duties of his office, take and subscribe an oath, before an officer authorized to administer oaths, that he/she possessed the required qualifications and that he/she will faithfully discharge the duties of his/her office. The oath shall be filed with the Board Secretary, who as an officer of the Board of Education, is authorized to take oaths, affirmations and affidavits in relation to the school matters of the District.

LEGAL: 18A:12-2, 1, 17-11

NON-ATTENDANCE

A member of the Board who shall fail to attend three consecutive regular meetings of the Board, without good cause, may be removed by a majority vote of the total membership of the Board. The vacancy thus created shall be filled in the same manner as other vacancies.

LEGAL: 18A:12-3

VACANCIES

Whenever a member shall cease to be a bona fide resident in the District, a vacancy in such office shall exist and he/she shall not exercise any of the duties thereof.

LEGAL: 18A:12-3

Vacancies which exist must be filled in accordance with the statutes.

LEGAL: 18A:12-15

ORGANIZATION MEETING

The Board of Education shall organize on any day of the first week commencing on the first Monday after school elections. If the organization meeting cannot take place by reason of lack of quorum, or for any other reason, said meeting shall be held within three days thereafter.

The Board shall organize by the election of one of its members as President and another as Vice President. The President and Vice President shall be elected by a majority of the entire Board. If a majority is not reached after 30 days from the beginning of the election, the County Superintendent of Schools shall appoint a President.

REGULAR MEETINGS

Time and place of the regular monthly meeting will be determined by the Board at the Organization Meeting.

SPECIAL MEETINGS

Special meetings may be called by the President at the request of the Superintendent or any member of the Board subject to the approval of a majority of the Board.

NOTICE AND AGENDA

The Board Secretary shall give notices of all regular and special meetings, the probable agenda and the minutes of previous meetings to all members of the Board at least two days before the date of the scheduled session.

OPEN MEETINGS ACT

The Board shall adhere to the Open Public Meetings Act (Chapter 231). The intent of the law is to give the public access to all phases of deliberation, policy formation and decision making of public bodies.

RULES OF ORDER

Robert's Rules of Order shall be authority on all questions of Parliamentary Procedure with the exception that the President shall have the right to offer resolutions, to discuss questions and to vote on all matters which come before the Board. Robert's Rules of Order provide for flexibility of procedures when groups under 20 in size conduct meetings.

CALL TO ORDER

If neither the President or Vice President is present at a meeting, the meeting shall be called to order by any other member of the Board and a Chairman Protem shall be elected from among those present.

QUORUM

A quorum shall consist of 5 Board members, and no business shall be conducted in the absence of a quorum, except when the **DOCTRINE OF NECESSITY** is invoked.

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 o'clock p.m. of the same day. If 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 will remove himself/herself from any discussions, meetings (informal or formal), committee meetings, and/or a vote regarding the matter. The Board will consider this matter without the Board member who has the conflict.

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

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than a quorum of the Board members must abstain from voting on a matter, 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 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, meetings (informal or formal), 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 will make a determination.
3. The school board attorney will 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, meetings (informal or formal), committee meetings, and/or a vote regarding the matter.

B. A Majority of Board Members in Conflict.

1. In the event:
 - A 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(s) has a conflict of interest where the Board member will set in his/her official capacity; and
 - The number of Board members that have a conflict would make it so the Board would be unable to take action on matter,

then the Board may invoke the **DOCTRINE OF NECESSITY**. (Citing U.S. v. Will, 449 U.S. 200 (1980)).

C. DOCTRINE OF NECESSITY.

1. The **DOCTRINE OF NECESSITY** may be invoked when more than a quorum of the Board must abstain from voting on a matter.

This situation may arise when the Board members must vote on contracts with local bargaining units when they are members of the same statewide general union or have an immediate family member in the local bargaining unit or the same statewide general union.

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2. There are three prerequisites necessary for a Board to invoke the **DOCTRINE OF NECESSITY**:
 - The Board must be unable to act without the members in conflict taking part;
 - There must be a pressing need for action, i.e. the matter cannot be laid aside until another date; and
 - 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 school board attorney advises 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**:
 - The announcement must include the reason the Board must invoke the **DOCTRINE OF NECESSITY** including stating the nature of each Board member's conflict.
 - 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.
 - It is enough for the Board to announce it is invoking the **DOCTRINE**; 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.
5. The Board members who have a conflict in the matter are prohibited from:
 - Participating in any discussions on the matter prior to the announcement and public meeting;
 - From entering an executive session in order to discuss the merits of the matter or contract; and
 - 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 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.

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

New Jersey School Ethics commission Advisory

Opinion A10-93 (b) and A07-94

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VOTING

Only those members present at the meeting are eligible to vote. An abstention vote shall not count.

DUTIES OF OFFICERS AND APPOINTEES

President

The president shall preside at all meetings and shall have the power to appoint committees at his/her discretion or at the request of members of the Board. He/she shall be an ex officio member of all committees. He/she shall have the right, as other members of the Board, to offer resolutions, to discuss questions and to vote. He/she shall perform such other duties as may be required by the Board or prescribed by law.

Vice President

In the absence of the President, the Vice President shall perform all the duties and assume all the obligations of the President.

Board Secretary

A Board Secretary shall be appointed by a majority roll call vote of all members of the Board who also shall fix the compensation and terms of employment and whose duties shall be outlined in policy and in Title 18A.

Attorney

An Attorney shall be appointed by the Board annually at the organization meeting. The Attorney shall advise the Board on specific legal matters and procedures.

Custodian of School Monies

A Custodian of School Monies shall be appointed by the Board annually, his/her term to run from July 1 - June 30th. His/her duties shall include: the disbursement of school monies by Board order, submission of monthly financial statements and compilation of annual fiscal reports.

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Auditor

An Auditor, qualified as a public school accountant in the State of New Jersey, shall be appointed annually by the Board. His/her duties shall include: the audit of financial books, accounts and monies of the Board, the audit of fiscal reports of any organization of school pupils conducted under the auspices of the Board and the submission of an annual audit report.

Insurance Advisor

The Board may appoint a consultant to provide advice on the insurance program.

VACANCIES CREATED BY BOARD OFFICERS

If the office of President or Vice President becomes vacant, the Board shall fill the vacancy in 30 days. If the office is not filled in 30 days, the County Superintendent of Schools will appoint to fulfill the vacancy.

REMOVAL OF BOARD OFFICERS

The President and/or the Vice President of the Bernards Township Board of Education may be removed from office in accordance with 18A:15-2.

TITLE OF PROPERTY

The title to all school property, real and personal, acquired for school purposes shall be held in the name of the Board of Education.

BONDING OF SCHOOL EMPLOYEES

All employees of the District who receive school monies shall be bonded.

CHANGES IN BYLAWS

Bylaws which are not dictated by the statutes or administrative codes or ordered by the Commissioner or Courts may be adopted, repealed or amended at any time provided such motion shall have been made at a Board meeting and adopted at a subsequent meeting by a majority vote of the entire Board.

ADOPTED: October 5, 1998