Merchantville Board of Education 130 South Centre Street Merchantville, NJ 08109	File Code : 4112.8/4212.8 Proposed : 08/12/2008 Adopted : 09/09/2008 Revised : 07/26/2016 Reviewed : 05/06/2024

Nepotism

Definitions

"Nepotism" for the purpose of this policy shall be defined as the showing of favoritism to an employee or candidate for employment based on the existence of a relationship as a relative or immediate family member of a board member or chief school administrator.

For the purpose of this policy, "relative" shall be defined as an individual's spouse, civil union partner, domestic partner, or the parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother or half-sister, of the individual or of the individual's spouse, civil union partner or domestic partner, whether the relative is related to the individual or the individual's spouse, civil union partner or domestic partner, by blood, marriage or adoption.

"Immediate family" shall be defined as board member or school administrator, their spouse, civil union partner, domestic partner, child, parent or sibling residing in the same household, whether related by blood, marriage or adoption.

Employment/Promotion of Relative

The board of education, in order to avoid both the reality and the appearance of conflict of interest in employment, will not initially appoint a relative of a board member or of the chief school administrator to any employment position in this district.

The chief school administrator shall not recommend to the board for initial hire any relative of a board member or of the chief school administrator, unless the person is subject to the exception below. Nor shall any person be considered for employment in any position in which he/she would come under the direct or indirect supervision of any relative. Where it is not feasible to eliminate such a direct or indirect supervisory relationship, appropriate screens and/or alternate supervision/reporting mechanisms shall be put in place.

No conflicted administrator shall supervise, or exercise authority over personnel matters in which the administrator has a conflict. No board member shall deliberate or vote on a matter involving the member’s conflicted relationship. Nor should the board member be present for any confidential discussion of employment matters in which they have a conflict. Neither should the board member receive confidential information pertaining to a matter in which they have a conflict.

Exceptions

Persons who are employees of the board on the date that this policy becomes effective or the date a relative becomes a board member or chief school administrator shall not be prohibited from continuing to be employed in the district. This includes employees who must be renewed

annually by the board. The chief school administrator may recommend those employees for reemployment, transfer, promotion or removal.

A relative of a school board member or chief school administrator may be employed by the district provided that the district has obtained the approval from the executive county superintendent of schools. 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.

Participation in Employment Related Matters

Conflicted board members may not participate in employment matters concerning the chief school administrator, principal or any administrator or supervisor(s) in the chain of command between the employee and chief school administrator.

Prohibited activities for conflicted board members include hiring of the selection agency, criteria, job description, voting to advertise for applicants, search committee, vote to hire and any evaluation and contract discussion post-hire.

Conflicted board members may not be present in closed session when discussions regarding the administrators take place and should not be privy to executive session materials until such time as the minutes are made available to the general public.

Board Member/Chief School Administrator Participation in Negotiations

A. In-District Bargaining Units

When a board member or school administrator is in a conflicted relationship which prohibits participation in collective negotiations, that board member or school administrator shall not participate in any way in negotiations. This includes, but is not limited to, setting negotiation parameters, being a member of the negotiating team, receiving negotiations updates, voting on the proposed agreement and post-contract participation in grievances. Nor shall that board member or school administrator be present with the board in closed session when negotiation strategies are being discussed. A school administrator may provide technical information that is necessary to the collective bargaining process when no one else can provide that information.

Board members or the chief school administrator are similarly precluded from participation in negotiations with any bargaining unit whose members have supervisory authority over a family member or other conflicted connection.

B. Out-of-District Similar Statewide Bargaining Units

1. When a board member is a member of an out-of-district similar statewide union or when a board member or school administrator is in a conflicted relationship involving an immediate family member who is a member of an out-of-district similar statewide union with which the board is negotiating, that board member or school administrator shall not participate in any way in negotiations. This includes, but is not limited to:

a. Developing negotiation parameters;

b. Being a member of the negotiating team;

c. Receiving confidential negotiations information updates prior;

d. Voting on the contract; and

e. Grievance participation.

A school administrator may, however provide technical information that is necessary to the collective bargaining process when no one else in the district can provide that information.

2. When a board member or school administrator is in a conflicted relationship involving a relative who is a member of an out-of-district similar statewide union with which the board is negotiating, there is no conflict unless the relative has a union leadership position in the state-wide union or local union that has the ability to affect negotiations. Union leadership positions in the state-wide union or local union that have the ability to affect negotiations include but are not limited to:

a. Officer;

b. Grievance chairperson;

c. Building representative;

d. Negotiation committee member.

A school official who has a conflicted relationship with any employee of the district or an employee in another out-of-district similar statewide union as of the effective date of this policy shall declare such relationship to the board immediately.

Doctrine of Necessity

When a quorum of the board has conflicted interests, the doctrine of necessity may be invoked in order to allow conflicted board members to participate in the negotiation process and vote. The doctrine of necessity may be invoked for the negotiation team or superintendent search committee only when the board of education has fewer non-conflicted board members than are required, pursuant to statute, to take action. The board shall only invoke the doctrine of necessity after consultation with the board attorney. When invoking the doctrine of necessity the board shall state publically that it is invoking the doctrine of necessity with the reasons for doing so and the specific nature of the conflicts of interest. The board shall read the resolution invoking the doctrine of necessity at a regularly scheduled public meeting, post the notice of the resolution for 30 days and provide the School Ethics Commission with a copy of the resolution.

Implementation

The connections and relationships that create a conflict of interest for an individual board member's participation in board decisions are subject to changes that result from commissioner rulings or changes in law. Therefore the board shall consult with the board attorney as necessary and appropriate for guidance and clarification related to the implementation of this policy.

Key Words

Nepotism, Hiring Relatives, Relatives

Legal References:

N.J.S.A. 18A:11-1 General mandatory powers and duties

N.J.S.A. 18A:12-2 Inconsistent interests or office prohibited

N.J.S.A. 18A:12-21 *et seq*. School Ethics Act

N.J.S.A. 18A:16-1 Officers and employees in general

N.J.S.A. 18A:27-4.1 Appointment, transfer, removal or renewal of officers and employees; exceptions

N.J.S.A. 52:13D-13 and -21.2 State conflict of interest law

N.J.A.C. 6A:4-1.1 *et seq*. Appealable decisions

N.J.A.C. 6A:23A-1.2 *et seq*. Fiscal accountability; definitions

N.J.A.C. 6A:23A-6.2 *et seq*. Fiscal accountability; nepotism

N.J.A.C. 6A:28-1.1 *et seq*. School Ethics Commission

In the Matter of the Election of Dorothy Bayless to the Board of Education of the Lawrence Township School District, 1974 S.L.D. 603, reversing 1974 S.L.D. 595

Shirley Smiecinski v. Board of Education of the Township of Hanover, Morris County, 1975 S.L.D. 478

Scola v. Ringwood Bd. of Ed., 1978 S.L.D. 413

Salerno v. Old Bridge Board of Ed., 1984 S.L.D. (April 28)

Larsen v. Woodbridge Board of Ed., 1985 S.L.D. (March 18)

Scannella v. Scudillo, School Ethics Decision, Complaint No. C-14-93, (February 3, 1994)

In the Matter of Frank Pannucci, 2000 S.L.D. March 1, State Board Rev'g Commissioner 97 NJAR 2d (EDU) 339

School Ethics Commission, Advisory Opinion, A01-93

School Ethics Commission, Advisory Opinion, A021-93

School Ethics Commission, Advisory Opinion, A10-93

School Ethics Commission, Advisory Opinion, A07-94

School Ethics Commission, Advisory Opinion, A33-95

School Ethics Commission, Advisory Opinion, A03-98

School Ethics Commission, Advisory Opinion, A14-00

School Ethics Commission, Advisory Opinion, A03-13

School Ethics Commission, Advisory Opinion, A15-13

School Ethics Commission, Advisory Opinion, A22-13

School Ethics Commission, Advisory Opinion, A09-14

School Ethics Commission, Advisory Opinion, A10-14

School Ethics Commission, Advisory Opinion, A11-14

School Ethics Commission, Advisory Opinion, A43-14

School Ethics Commission, Advisory Opinion, A03-15

School Ethics Commission, Advisory Opinion, A05-15

School Ethics Commission, Advisory Opinion, A11-15

School Ethics Commission, Advisory Opinion, A13-15

School Ethics Commission, Advisory Opinion, A16-15

N.J. Department of Education 05-13-09 Broadcast # 1 "Nepotism Policy Clarification"

Possible Cross References:

*4111 Recruitment, selection and hiring

*4119.21 Conflict of interest

*9270 Conflict of interest

*Indicates policy is included in the Critical Policy Reference Manual.