

ASSEMBLY, No. 2541

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblyman JON M. BRAMNICK

District 21 (Morris, Somerset and Union)

Assemblyman EDWARD H. THOMSON

District 30 (Monmouth and Ocean)

SYNOPSIS

Clarifies law on ethical conduct of board of education members and school administrators and provides specific requirements for boards invoking doctrine of necessity.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/3/2020)

1 AN ACT concerning school ethics and amending and supplementing
2 P.L.1991, c.393.

3

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

6

7 1. Section 4 of P.L.1991, c.393 (C.18A:12-24) is amended to
8 read as follows:

9 4. a. No school official or member of his immediate family
10 shall have an interest in a business organization or engage in any
11 business, transaction, or professional activity, which is in
12 substantial conflict with the proper discharge of his duties in the
13 public interest;

14 b. No school official shall use or attempt to use his official
15 position to secure unwarranted privileges, advantages or
16 employment for himself **[,]** or members of his immediate family
17 **[or others]**;

18 c. No school official shall act in his official capacity in any
19 matter where he, a member of his immediate family, or a business
20 organization in which he has an interest, has a direct or indirect
21 financial involvement that might reasonably be expected to impair
22 his objectivity or independence of judgment. No school official
23 shall act in his official capacity in any matter where he or a member
24 of his immediate family has a personal involvement that is or
25 creates some benefit to the school official or member of his
26 immediate family;

27 d. No school official shall undertake any employment or
28 service, whether compensated or not, which might reasonably be
29 expected to prejudice his independence of judgment in the exercise
30 of his official duties;

31 e. No school official, or member of his immediate family, or
32 business organization in which he has an interest, shall solicit or
33 accept any gift, favor, loan, political contribution, service, promise
34 of future employment, or other thing of value based upon an
35 understanding that the gift, favor, loan, contribution, service,
36 promise, or other thing of value was given or offered for the
37 purpose of influencing him, directly or indirectly, in the discharge
38 of his official duties. This provision shall not apply to the
39 solicitation or acceptance of contributions to the campaign of an
40 announced candidate for elective public office, if the school official
41 has no knowledge or reason to believe that the campaign
42 contribution, if accepted, was given with the intent to influence the
43 school official in the discharge of his official duties;

44 f. No school official shall use, or allow to be used, his public
45 office or employment, or any information, not generally available to

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

Matter underlined thus is new matter.

1 the members of the public, which he receives or acquires in the
2 course of and by reason of his office or employment, for the
3 purpose of securing financial gain for himself, any member of his
4 immediate family, or any business organization with which he is
5 associated;

6 g. No school official or business organization in which he has
7 an interest shall represent any person or party other than the school
8 board or school district in connection with any cause, proceeding,
9 application or other matter pending before the school district in
10 which he serves or in any proceeding involving the school district
11 in which he serves or, for officers or employees of the New Jersey
12 School Boards Association, any school district. This provision shall
13 not be deemed to prohibit representation within the context of
14 official labor union or similar representational responsibilities;

15 h. No school official shall be deemed in conflict with these
16 provisions if, by reason of his participation in any matter required
17 to be voted upon, no material or monetary gain accrues to him as a
18 member of any business, profession, occupation or group, to any
19 greater extent than any gain could reasonably be expected to accrue
20 to any other member of that business, profession, occupation or
21 group;

22 i. No elected member shall be prohibited from making an
23 inquiry for information on behalf of a constituent, if no fee, reward
24 or other thing of value is promised to, given to or accepted by the
25 member or a member of his immediate family, whether directly or
26 indirectly, in return therefor;

27 j. Nothing shall prohibit any school official, or members of his
28 immediate family, from representing himself, or themselves, in
29 negotiations or proceedings concerning his, or their, own interests;
30 and

31 k. Employees of the New Jersey School Boards Association
32 shall not be precluded from providing assistance, in the normal
33 course of their duties, to boards of education in the negotiation of a
34 collective bargaining agreement regardless of whether a member of
35 their immediate family is a member of, or covered by, a collective
36 bargaining agreement negotiated by a Statewide union with which a
37 board of education is negotiating.

38 (cf: P.L.1999, c.256, s.1)

39

40 2. (New section) Notwithstanding the provisions of section 4
41 of P.L.1991, c.393 (C.18A:12-24) or any other law or regulation to
42 the contrary, a board member or administrator shall not be
43 precluded from fully participating in any matter touching upon the
44 collective negotiations process due to a conflict of interest based
45 solely on an out-of-district similar Statewide union affiliation.

46

47 3. (New section) a. Prior to a quorum of a board of education
48 or a board of trustees of a charter school invoking the doctrine of

1 necessity, the board shall verify through its legal counsel the
2 conflict of interest of each affected board member.

3 b. When a quorum of a board of education or a board of
4 trustees of a charter school invokes the doctrine of necessity, the
5 board shall use the following procedure:

6 (1) State publicly that it is invoking the doctrine of necessity,
7 the reason for doing so, and the specific nature of the conflict of
8 interest;

9 (2) Adopt a resolution setting forth that it is invoking the
10 doctrine of necessity, the reason for doing so, and the specific
11 nature of the conflict of interest;

12 (3) Read the resolution at a regularly scheduled public meeting
13 of the board;

14 (4) Post a copy of the resolution for 30 days in the place where
15 it posts other public notices; and

16 (5) Provide the School Ethics Commission with a copy of the
17 resolution.

18

19 4. This act shall take effect immediately.

20

21

22 STATEMENT

23

24 In order to provide more clarity for school board members and
25 administrators as to appropriate ethical conduct under the “School
26 Ethics Act,” P.L.1991, c.393 (C.18A:12-21 et seq.), this bill deletes
27 the word “others” in the provision that prohibits school officials
28 from using or attempting to use their official position to secure
29 unwarranted privileges, advantages, or employment for the school
30 official himself, a member of his “immediate family” which is
31 defined to include his spouse or a dependent child residing in the
32 same household, or others. There is no definition of “others” in the
33 “School Ethics Act,” and its inclusion in this provision has led to
34 confusion in regard to issues of conflict.

35 The bill also provides that a school board member or
36 administrator will not be precluded from participating in any matter
37 touching upon the collective negotiation process due to a conflict of
38 interest based solely on an out-of-district similar Statewide union
39 affiliation.

40 In addition, the bill includes specific requirements in order for a
41 board of education or board of trustees of a charter school to invoke
42 the doctrine of necessity. The doctrine of necessity is invoked by a
43 board of education or board of trustees when a majority of the
44 members on the board have an ethical conflict that would prohibit
45 those members from voting on an issue before the board. Invoking
46 the doctrine of necessity allows these conflicted members to then
47 vote.