

RESOLUTION NO. 2009 –

**RESOLUTION OF THE TOMS RIVER REGIONAL
SCHOOLS BOARD OF EDUCATION, COUNTY OF
OCEAN, STATE OF NEW JERSEY, INVOKING
THE DOCTRINE OF NECESSITY**

WHEREAS, the School Ethics Act, N.J.S.A. 18A:12-21 *et seq.* was enacted by the New Jersey State Legislature to ensure and preserve public confidence in school board members and school administrators, and to provide specific ethical standards to guide their conduct; and

WHEREAS, questions arose regarding how a Board should invoke the Doctrine of Necessity when a quorum of a Board of Education has conflicts of interest on a matter required to be voted upon; and

WHEREAS, the School Ethics Commission (“Commission”) provided guidance in Public Advisory Opinion A03-9 (April 1, 1998); and

WHEREAS, the opinion set forth that, when it is necessary for a Board to invoke the Doctrine of Necessity, the Board should state publicly that it is doing so, the reason that such action is necessary, and the specific nature of the conflicts of interest; and

WHEREAS, the School Ethics Commission, by resolution dated February 25, 2003, clarified and required a Board of Education invoking the Doctrine of Necessity to adopt a resolution setting forth that they are invoking the Doctrine, the reason for doing so, and the specific nature of the conflicts of interest; and

WHEREAS, the School Ethics Commission further directed Boards of Education that invoke the Doctrine to read the resolution at a regularly scheduled public

meeting, post it where it posts public notices for thirty (30) days, and provide the Commission with a copy; and

WHEREAS, N.J.S.A. 18A:17-20.3 requires the Board to evaluate the performance of the Superintendent at least once a year; and

WHEREAS, the Toms River Regional School Board of Education desires to evaluate Superintendent Michael J. Ritacco; and

WHEREAS, the evaluation process includes meeting to discuss the evaluation; and

WHEREAS, the Board Attorney has reviewed the advisory decisions of the Commission and determined board member conflicts prohibit four members of the Board from fully evaluating the Superintendent's contract; and

WHEREAS, the four board member conflicts are as follows:

1. Betty Vasil's daughter is a supervisor in district; and
2. Edward F. Gearity's wife is a secretary in the school district; and
3. Thomas Baxter's daughter is a teacher in the school district; and
4. Jamie Ann Henninger's sister works in the Transportation Department of the school district; and
5. Richard Longo's wife is a nurse in the District (will be former board member upon reorganization); and

WHEREAS, Board Members Richard Longo and Loreen Reimer have submitted an evaluation form, but will be former board members at the time of the meeting to discuss the evaluation process; and

WHEREAS, two newly elected members cannot evaluate the Superintendent, thereby leaving a seven member board for the purpose of said evaluation process; and

WHEREAS, the inability of the above four board members to complete the evaluation process for the Superintendent, results in the lack of a quorum; and

WHEREAS, in order to evaluate the Superintendent, the Board desires to invoke the Doctrine of Necessity, in accordance with the procedures established by the Commission.

NOW, THEREFORE, BE IT RESOLVED, by the Toms River Regional Schools Board of Education, County of Ocean, State of New Jersey, as follows:

1. That the four board members, as noted above, are prohibited from evaluating the Superintendent, and the Board therefore invokes the Doctrine of Necessity in order to fully evaluate Superintendent Michael J. Ritacco.
2. That this resolution shall be read at a regularly scheduled public meeting of the Board and be posted on the Board's website.
3. That a copy of this resolution shall be forwarded to the School Ethics Commission.

CERTIFICATION

I, **WENDY SAXTON, Board Secretary**, of the Toms River Regional Schools Board of Education, do hereby certify that the foregoing resolution was duly adopted by the Board of Education at a meeting held on the _____ day of _____, **2009**.

WENDY SAXTON, Board Secretary
Toms River Regional Schools
Board of Education

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