

DOCTRINE OF NECESSITY

RESOLUTION OF THE TOMS RIVER REGIONAL SCHOOLS BOARD OF EDUCATION 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 have arisen 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 has provided some guidance in Public Advisory Opinion A03-98 (April 1, 1998) but finds that there is a need to repeat and clarify its opinion; 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, in keeping with the legislative purpose as set forth in N.J.S.A. 18A:12-22(a), the School Ethics Commission views public disclosure of conflicts of interest to be paramount when it is necessary to invoke the Doctrine of Necessity; and

WHEREAS, a majority of members of the Board of Education of the Toms River Regional Schools have a conflict of interest in matters pertaining to negotiations with the Toms River Education Association.

NOW THEREFORE BE IT RESOLVED that the Toms River Regional Schools Board of Education does hereby invoke the Doctrine of Necessity for the reason of taking potential action with respect to a proposed contract with the Toms River Regional Schools Education Association, and that it must do so because of the conflicts of interest of the following Toms River Regional Schools Board of Education members:

a. Board Vice President James Capone's sister is employed as a teacher in the Toms River Regional School District and is a member of the Toms River Education Association.

b. Board Member Joseph Jubert's daughter-in-law is employed as a teacher in the Toms River Regional School District and is a member of the Toms River Education Association. Mr. Jubert in August 2024 was endorsed by the Toms River Education Association as a candidate seeking to be elected to the Toms River Regional Schools Board of Education. Further, Mr. Jubert received a campaign contribution from the New Jersey Education Association.

c. Board Member Kevin Kidney is employed as a teacher by Brick Township Public Schools, is a member of the Brick Township Education Association, and is a member of the New Jersey Education Association. In 2022 Mr. Kidney was endorsed by the Toms River Education Association as a candidate seeking to be elected to the Toms River Regional Schools Board of Education. Further, Mr. Kidney received a campaign contribution from the New Jersey Education Association.

d. Board Member Kathy Eagan's daughter is employed as a teacher in the Toms River Regional School District and is a member of the Toms River Education Association. Kathy Eagan's nephews and niece are employed as teachers in the Toms River Regional School District and are members of the Toms River Education Association.

e. Board Member Lisa Contessa in August 2024 was endorsed by the Toms River Education Association as a candidate seeking to be elected to the Toms River Regional Schools Board of Education. Further, Lisa Contessa received a campaign contribution from the New Jersey Education Association.

BE IT FURTHER RESOLVED that the Toms River Regional Schools Board of Education is herewith meeting the requirement to read the resolution at a regularly scheduled public meeting, will post it where it posts public notices for 30 days, and will provide the School Ethics Commission with a copy of the resolution as required by the Decision of the School Ethics Commission.