

August 23, 2023

RESOLUTION OF THE SOUTHERN REGIONAL 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, the Southern Regional Board of Education ("Board") needs to enter into a new employment contract with the Superintendent of Schools; and

WHEREAS, upon review of the advisory decisions of the Commission it has been determined board member conflicts would otherwise prohibit five (5) of the ten (10) board members from voting on a contract with the Superintendent of Schools; and

WHEREAS, N.J.S.A. 18A:17-15 mandates that an employment contract with the Superintendent of Schools must receive an affirmative vote of a majority of the full membership of the board which would be, at minimum, six (6) of the ten (10) board members; and

WHEREAS, five (5) board members, namely, Kevin Lyons, Bethanne Markoski, Paul Sharkey, Scott Waters and Keith Weidenhof have family members, as defined by the School Ethics Commission, who are employed by the Southern Regional School District ; and

WHEREAS, these conflicts prohibit those Board of Education members from voting on a contract for the Superintendent of Schools per School Ethics Commission guidance; and

WHEREAS, there are only five (5) Board of Education members who do not have a conflict under the School Ethics Commission Guidance without invoking the doctrine of necessity; and

WHEREAS, the inability of the above board members to participate in this vote results in the lack of a quorum and the impossibility of obtaining the number of affirmative votes required by statute; and

WHEREAS, in order to approve a new contract with the Superintendent of Schools, the Board must have a quorum; and

WHEREAS, the Board desires to invoke the Doctrine of Necessity, in accordance with the procedures established by the Commission in order to approve a new employment contract with the Superintendent of Schools.

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

1. That the board members, as noted above, are in conflict by virtue of the school district employment of family members, and the Board therefore invokes the Doctrine of Necessity in order to hold a vote on a new employment contract with the Superintendent of Schools.
2. That this resolution shall be read at the public meeting of August 23, 2023 and shall be posted where it posts public notices for thirty (30) days.
3. That a copy of this resolution shall be forwarded to the School Ethics Commission by the Board Secretary.

MOTION – Kevin Lyons SECOND – Steven Berkheiser

Yes – Steven Berkheiser, Terry Deakyne, Kevin Lyons, Bethanne Markoski, Paul Sharkey, Keith Weidenhof, Kelly Zuzic and Heather Tatur

No – None

Absent – Christopher Taylor and Scott Waters