

## **NEPOTISM – NON-CERTIFIED STAFF**

### **Definitions**

For the purpose of this policy the following definitions shall apply:

“Nepotism” shall be defined as the showing of favoritism to an employee or candidate for employment based on the existence of a “conflicted relationship” with a Board member or Superintendent.

“Conflicted relationship” includes but is not limited to an immediate family member, a relative, and any other relationship that create a justifiable impression that the public trust may be violated.

“Conflicted Board member/administrator” shall mean any Board member or administrator with a conflict of interest, regardless of the source of conflict as identified in the definitions below.

“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.

“Other” when describing relationships between individuals and Board members or the Superintendent includes but is not limited to in-law, cousin, cohabitating partner, and step daughter-in-law and any other personal or professional relationship that creates the justifiable impression that the public trust is being violated.

The Board of Education, in order to avoid both the reality and the appearance of conflict of interest in employment, will not appoint a relative a school official (defined as a Board member, Superintendent or other administrator), or of any other paid employee of the Board to any employment position in this District, and directs that the Superintendent not place in nomination for any position any person who is a relative of a Board member or administrator or any other paid employee of the District. This restriction does not apply to substitute staff or seasonal employees who are relatives of any administrator (excluding the Superintendent) or other paid employees. No person shall be considered for employment in any position in which he/she would come under the direct or indirect supervision of any member of his/her family or where he/she would directly or indirectly supervise any member of his/her family. (See policy 9273 Nepotism for specifics on Board members.)

Per Diem substitutes and student employees are excluded from the provisions of this policy.

### **Exceptions Regarding Employment**

Persons who are employees of the Board on the date that this policy becomes effective shall not be discharged because of this policy, nor shall they be denied reemployment in succeeding

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years because of it. However, if any person who is a relative of a Board member or an administrator resigns or is not reemployed for other reasons (except reduction in force), this policy would deny reemployment for such period as the individual has such a family relationship.

No one shall be released from present employment in the District because of a conflicting relationship who has been regularly employed by the Board prior to the inception of the relationship, the adoption of this policy or a school official's election or appointment.

A school official who has such relationship with any employee of the District as of the effective date of this policy shall declare such relationship immediately. A Board member shall not participate in any discussion or vote on any action of the Board which will directly affect a relative.

The District may seek approval from the Executive County Superintendent to promote an existing employee who is a relative of a school official when such a promotion is justified by the needs of the District to ensure the implementation of the Core Curriculum Content Standards, if the District can demonstrate that the existing employee is the most qualified candidate for the position after full advertising and interviewing has occurred.

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.

**Participation in Employment Related Matters**

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

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/Superintendent 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.

**NEPOTISM – NON-CERTIFIED STAFF (continued)****Board Member/Superintendent Participation in Negotiations****A. In-District Bargaining Units** (continued)

Board members or the Superintendent 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**

When a Board member or school administrator is in a conflicted relationship with an individual 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: being a member of the negotiating team, and receiving confidential negotiations information updates prior to the Board's attaining a tentative memorandum of agreement with the bargaining unit, including salary guides and/or the total compensation package.

Once such tentative memorandum of agreement is established, including salary guides and/or the total package of money to be offered, the Board member or school administrator may fully participate in the process, including Board member voting, absent other conflicts. Prior to that time, the Board member or school administrator shall not be present with the Board in closed session when negotiation strategies are being discussed. However, a school administrator may provide technical information that is necessary to the collective bargaining process when no one else in the District can provide that information.

In situations where a Board member or Administrator who has a relative who is a member of an out-of-district similar state-wide union with which the Board is negotiating will not violate the State Ethics Act per se, if he/she participates in negotiations or votes on the contract with the local education affiliate. The Board member's or Administrator's participation should be determined by the level of involvement, leadership and/or negotiation status his relative has in the union, and/or the concurrence of the two unions' negotiations. If a Board member is employed in an administrative capacity in another district, that Board member may be able to participate in teacher negotiations if there is no connection between the administrative and teachers union in the district where he/she is employed. The Board should consult the Board attorney and review applicable School Ethics Committee decisions when such situations arise

**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.

**Legal References:** N.J.S.A. 18A:11-1  
N.J.S.A. 18A:12-2  
N.J.S.A. 18A:12-21 et seq.  
N.J.S.A. 18A:16-1  
N.J.S.A. 18A:27-4.1

General mandatory powers and duties  
 Inconsistent interests or office prohibited  
 School Ethics Act  
 Officers and employees in general  
 Appointment, transfer, removal or renewal of officers and employees; exceptions

**NEPOTISM – NON-CERTIFIED STAFF (continued)****Legal References: (continued)**

<u>N.J.S.A.</u> 53:13D-13	State conflict of interest law
And 21.2	
<u>N.J.A.C.</u> 6A:4-1.1 <u>et seq.</u>	Appealable decisions
<u>N.J.A.C.</u> 6A:23A-1.2 <u>et seq.</u>	Fiscal accountability; definitions
<u>N.J.A.C.</u> 6A:23A-6.2 <u>et seq.</u>	Fiscal accountability; nepotism
<u>N.J.A.C.</u> 6A:28-1.1 <u>et seq.</u>	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, 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

**NEPOTISM – NON-CERTIFIED STAFF (continued)****Legal References: (continued)**

School Ethics Commission, Advisory Opinion A11-15

School Ethics Commission, Advisory Opinion A16-15

School Ethics Commission, Advisory Opinion A13-15

School Ethics Commission, Advisory Opinion A40-15

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

**Cross References:**

*4111	Recruitment, selection and hiring
*4112.8	Nepotism -Certified Staff
*4119.21	Conflict of interest
*9270	Conflict of interest
*9271	Code of Ethics
9272	Pay to play
9273	Nepotism – Board members

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

**Key Words**

Nepotism, Hiring Relatives, Relatives

Approved: March 24, 2008

Revised: November 30, 2009, December 14, 2015, May 23, 2016