

January 8, 2019

RESOLUTION OF THE BEACH HAVEN 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 Beach Haven Board of Education (“Board”) needs to establish a Board Negotiations Committee in order to negotiate salary increases and a new contract with the Beach Haven Education Association (“BHEA”); and

WHEREAS, the Board Attorney, Isabel Machado, Esq., has reviewed the advisory decisions of the Commission and has determined board member conflicts would otherwise prohibit four (4) of the five (5) board members from participating in negotiations with the BHEA; and

WHEREAS, three (3) board members, namely, Meredith O'Donnell, Jen Tomlinson and Irene Hughes are currently members of the New Jersey Education Association (NJEA); and

WHEREAS, board member, Carol Labin, is a former member of the BHEA / NJEA and previously involved in negotiations prior to retirement; and

WHEREAS, there is only one non-conflicted board member thereby precluding a negotiations committee without invoking the doctrine of necessity; and

WHEREAS, the inability of the above board members to participate in this process results in the lack of a quorum and the establishment of a committee; and

WHEREAS, in order to establish a Negotiations Committee to negotiate salary increases and a new contract with the BHEA, 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 form a Negotiations Committee to negotiate salary increases and a new contract with the BHEA.

NOW, THEREFORE, BE IT RESOLVED, by the Beach Haven 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 their association with the NJEA, and the Board therefore invokes the Doctrine of Necessity in order to establish a Negotiations Committee to negotiate salary increases and a new contract with the BHEA.
2. The Board hereby appoints board members, Jean Frazier and Jen Tomlinson, to the Negotiations Committee.
3. That this resolution shall be read at the public meeting of January 8, 2019 and shall be posted where it posts public notices for thirty (30) days.
4. That a copy of this resolution shall be forwarded to the School Ethics Commission by the Board Attorney.

MOTION – Irene Hughes SECOND – Meredith O’Donnell

Yes – Irene Hughes, Jean Frazier, Carol Labin, Jen Tomlinson and Meredith O’Donnell

No – None

I hereby certify that at the Reorganization Meeting of the Beach Haven School District Board of Education, held on January 8, 2019, the resolution above was approved and recorded in the Minutes.

Steven Terhune

*Steven Terhune
Board Secretary*