

TOWNSHIP OF UNION BOARD OF EDUCATION
SPECIAL MEETING AGENDA – ETHICS TRAINING
FEBRUARY 20, 2020 - 6:00 p.m.

NOTICE OF MEETING:

TO ALL BOARD OF EDUCATION MEMBERS:

The special meeting of the Board of Education of the Township of Union for ethics training was held on Thursday, February 20, 2020 at 6:00 p.m. at the Administration Building, 2369 Morris Avenue, Union, New Jersey pursuant to notice sent to each member.

Mrs. Minneci called the meeting to order at 6:09 p.m.

PRESENT AT ROLL CALL:

Dr. Guy Francis, Mr. Ronnie McDowell, Mrs. Nancy Minneci, Dr. Kalisha Morgan, Mr. Vito Nufrio, Mrs. Linda Richardson, Mrs. Kim Ruiz, Mrs. Mary Lynn Williams

ABSENT AT ROLL CALL:

Mrs. Sherry Higgins (arrived 6:17 p.m.)

ADMINISTRATORS PRESENT:

None

ALSO PRESENT:

Gwen Thornton, Field Service Representative from New Jersey School Board Association.

Mrs. Ruiz led the Board and audience members in the Pledge of Allegiance.

Mrs. Williams read the statement required under the “Open Public Meetings Act”, a copy of which is on file in the office of the Board Secretary.

Mr. McDowell read the District’s mission statement.

Mrs. Minneci stated tonight we have Gwen Thornton here from NJSBA to give us our ethics training.

Mrs. Thornton stated it is my pleasure to be here. I’m back again because you are required by NJQSAC – New Jersey Quality Single Accountability Continuum, the State’s monitoring system to have annual ethics training. Not much has changed since the last time I was here. It is essential that the conduct of members of board of education retain respect and confidence of the people because we ask them to give their two most important things – their children and their money. We want to make sure that they are comfortable that we are making the best decisions possible, in the most ethical ways possible. You want to make sure you avoid any conduct that could be a potential violation or just the perception of a possible violation because you want to make sure that we are creating trust with our communities. It is a tough

thing to do these days. It seems like no one trusts anyone any more. It is certainly important and as a board member I was always proud of that boards of education agreed to live by a Code of Ethics. I am still waiting after 18 years of this job and 10 years as a board member of our legislative brethren down the street from our headquarters in Trenton to adopt a code of ethics but I'm not going to hold my breath.

The provision of this act also applies to charter school trustees and administrators but it should guide your conduct and there are disciplinary mechanisms included to make sure that everything is there.

NJQSAC – Governance Indicator – says that you have to have your annual ethics training. When I was a board member QSAC did not exist and we simply used to read the Code of Ethics into the minutes at the reorganization meeting and they were posted on the wall and I don't think anyone would discuss it again. I think there is value in talking about it on annual basis.

The School Ethics Act established the School Ethics Commission, the Code of Ethics in 2001. It speaks to conflicts of interest in the law and of course your disclosure statement. The financial disclosure forms come via email – please don't forget to fill those out and submit them. There is a deadline and they will suspend you from your board if you don't complete it in the timeline. It also lays out the training requirements for board members.

As a brand new Board member you have to go to training in year one; in the second and third years of your first term, we named them Gov II and Gov III for simplifying the entire piece, Gov II is student achievement, Gov III is finance and in year four, which would be the first year of any subsequent term – would be legal updates and that is required in the law.

Additionally, if you are newly elected, appointed, reelected or reappointed, you are required to have HIB training but you only have to have that once. Your board attorney takes care of that or if you attend with the district when they are training staff.

There are nine members to the School Ethics Commission – two are school board members, two are sups and five are regular citizens. They are appointed by the Governor and they serve for a three-year term and no more than five can belong to the same political party – with a big “D” and big “R” – they try to balance it so it is non-partisan. As school board members are elected on a non-partisan basis and they want to make sure that is reflected.

They issue both opinions as well as advisory opinions. If you have a question and/or concern about an upcoming vote – you think you might have a conflict, there might be a problem, you can ask on a prospective basis for an advisory opinion ahead of a discussion or taking a vote. You write to them – you say here are the conditions, this is what is going to happen, may I participate, may I not participate. They will get back to you with an answer.

Some advisory opinions, when people request them, have such a widespread impact on the entire State of board members, they will make those advisory opinions public. You will see them published in School Board Notes. An advisory opinion made public applies to all board

members and what the SEC will tell you is if they issued an advisory opinion, there is an expectation that you are aware of it and therefore you need to know what it says so you don't accidentally step over the line. We went for 5-6 years under Governor Christie when there were not six members, he hadn't fully staffed the SEC and we had no advisory opinions. They finally got a sixth voice and we got a wrath of advisory opinions. Last year there was only one advisory opinion.

Mrs. Higgins arrived at 6:17 p.m.

Anyone can file an ethics complaint against a board member; any citizen, staff member, another board member. The form is available to you online at the Department of Education/School Ethics Commission. You fill it out and you have to have it notarized and then you can send it off. It doesn't require you to retain counsel or an attorney to file a complaint against a board member. I believe the notary piece is there to get people to slow down and think about what they are doing before they file. It generally takes several months for a complaint to work through the system.

Typically only when the SEC does its initial readout on it, if they believe there is potential violation would you as a board member would be notified and you would receive a registered letter that says someone has filed an ethics complaint against you as a board member and they give you 30 days to respond to the complaint. Because the district carries Errors & Omissions Insurance, are indemnified if someone files a complaint against you for an act that you take in your official capacity. If someone says you have done something that is violative of the ethics act in the commissioner of your role and responsibilities as a board member, you are entitled to representation through the district and their insurance carrier will provide financial coverage for that piece of it.

However, that does not mean that if you are at a basketball game, and I'm not making this up, and you are a parent and you take a swing at the coach, you are not indemnified for that because you are not acting in your official capacity as a board member, you are acting either as a citizen or a parent. The SEC will not hear that complaint until it is adjudicated because the board member was arrested for assault and battery. Until that was resolved through the court system, the SEC will not adjudicate the ethics violation of not supporting school personnel in the proper performance of their duties which he was found that he violated that act in addition to being found guilty of assaulting the teacher which carries its own set of penalties

Advisory Opinion A06-19 was the only one issued in 2019. This is a little bit different, I actually lived this when I was a board member. We had a board member who was retired and driving a school bus for the Ed Services Commission. He was driving a bus for our district through the jointure and they said you can't. You can either be a board member or you can drive the bus. The bus is a vendor to the district and therefore you can't. They have now decided that is not a problem. My point is there are over time changes that occur and an evolution; sometimes things that were once o.k. becomes not o.k. and the reverse is true too. Things that weren't o.k. become o.k. You really need to make sure that you are aware of these advisory opinions. You should get school board notes via email rather than paper copy and we always print the advisory opinions.

Currently the SEC is spending most of its time adjudicating social media issues among and between board members and public. When I started, the number one violation was confidentiality – board members not maintaining confidentiality of executive session. Now they are spending the lion share of their time dealing with social media issues and board member use of social media.

If they find that you violated it, they have a number of options – they can issue a reprimand, a censure, a suspension or removal. The difference between a censure and a reprimand – reprimand is a rebuke by the Commissioner and it comes in a form of a letter; a censure is a formal disapproval that has to be read at a public board meeting and that is the difference – it gets made public.

Suspension – the length of time is determined by the Commissioner and by formal resolution and they will suspend folks for periods of time – depending on the severity of the infraction.

Removal – they can permanently remove you – that is rare but they have done it. It has to be really egregious. I think my favorite one was they removed a board member in a district where he was the retired superintendent. As you know, the board can only hire someone upon the affirmative recommendation of the superintendent, absent the recommendation of the sitting superintendent, you can't hire anyone. This board member (aka the former superintendent) made a recommendation to hire someone, another board member seconded it and the board approved it. They removed both the retired superintendent and the person who seconded it and they said in their decision if they had the authority, which they don't, to prevent the retired superintendent from ever holding another public office, they would make sure he didn't ever hold public office again. Again it was the knowledge that he had been a superintendent, he knew what the law was, he knew only the sup could recommend, he knew that was an outrageous action to take.

Dr. Francis stated once they remove, it is permanent. Mrs. Thornton stated it is not. You can run again. There is nothing in the law that would prevent it. I would hope that if your public were aware and they should be aware when someone is removed, it generally makes the papers, that they would not re-elect you to office. They certainly could, it is not written into the law.

Another piece that is problematic, as you know you can't, with the accountability regulations and so forth, hire a family member that is not already employed in the district when you get on the board – they are grandfathered, but you can't have your son or daughter become a teacher in the district as long as you are a board member, you have to be off the board for a specified period of time and then they can be employed. We have had board members that resigned to enable a family member to be employed and then they wait and they rerun and they are back on. It doesn't really inspire confidence in the public that you are being ethical but on the other hand if the public votes you back in, then when you look at it, o.k. I guess it is o.k. for that particular community. It is not a practice that I would recommend.

Mr. McDowell stated the reprimand is not made public. Mrs. Thornton stated no it is just a letter that comes to you as a board member from the Commissioner.

Code of Ethics - here are the pieces you are required to uphold all the laws of the State and federal government and all the regulations. My favorite example is PARCC – there were a lot of districts unhappy with PARCC and there were boards who wanted to right policies that said you could opt out, you don't have to take it. You couldn't do that because it is a State requirement. All laws and regs not just the ones you like.

Mrs. Ruiz asked didn't we have one of our union reps here talking about certain districts that were moving away from standardize tests and they spoke about a specific district whose board announced they were eliminating standardized testing for that district? Bloomfield? Belleville? They read it to us as an example of what some districts were doing. Dr. Francis stated it was Rich D'Avanzo. Dr. Morgan stated that is not true – parents have an option to not participate but we can't say we have an opt out policy. Mrs. Thornton stated you can keep a child out but the district can't force you to do it. You can reduce the number of standardized tests to a point but you have to give them mandated ones required by the State and the State has reduced, since we changed Governors and Commissioners. They are rolling out all new student learning standards starting this June – yet again. The one thing you can be certain of that there will be continual change in the educational process. I'm not sure if they will look dramatically different, but they are coming and they are going to start rolling them out in June. They are changing the testing; people finally got accustomed whether your like it or not; we got a couple of years of PARCC in where you could actually see if there was progress for kids but now we are changing that too. It becomes very difficult. It is especially difficult for teachers and for the educational leaders to try to have any kind of consistency. It makes it difficult for parents to be able to measure the growth their children are making when you do different cohorts and you are not using the same assessment.

You are required to make decisions in educational welfare of all children and you cannot discriminate based on race, religion, sex, creeds, social standing, etc. They come to you, you have to educate them from wherever they are, you need to take them where they need to go. Hopefully that is something we are doing better and better over time.

You are required to confine your board action to policy making, planning and appraisal and to frame policies and plans only after consulting those that were impacted. That doesn't mean for every policy that you have, you have to run out and talk to all of the staff. You depend upon your educational leaders to talk to the staff about policies and how they impact them. Those policies let's say to go to uniforms, that is a policy that is dramatic or there is a movement in the State to move the start time of high schools with a notion that we know through research that the particular age group does better with more sleep and they are sleep deprived but that kind of impact changing the high school schedule, generally impacts every grade level K-12 because if you are busing, now you are shifting busing and times, impacting peoples work schedules because of before school care, after school care – change is the first order – that kind of policy change, the board better have some public hearings and consult your public before you just decide to shift the high school two hours later.

Mr. McDowell stated it says “only after the board has consulted those who will be affected by them”. What if it is just the public that is affected by the policy? This week we

reduced speaking time from five minutes to three minutes, should we have sought the public's input. Mrs. Thornton stated probably not a bad idea. I'm not sure that reducing the public's ability to speak from five minutes to three minutes; it may reduce the time you have to spend in the meeting. Are you getting 100 people coming to the board meeting? Mr. McDowell stated no. Mrs. Thornton stated I think being accountable and transparent and available to your community is a critical piece for boards and the optics of reducing it for the amount of time that you are going to save does not seem to be a good trade off from a board perspective. If you are only getting five people, that is ten minutes. If you were getting 200 people I could see that would be a considerable amount of time. But the optics to that is not very good. The other piece that is difficult with that – a board of education meeting is a meeting of the board in public. It is an opportunity for the public to witness the board conducting the board's business and comment on that. It is not meant for a dialogue with the board. Often time the public is not really clear about that distinction and they come with an expectation that it is more of a dialogue than it is commenting on the business of the district or the business of the board. They get very frustrated. What I would say to you is, if you went ahead and reduced the time, then you need to make a point of offering opportunities to dialogue with the public in another setting separate and apart from your board meetings. You can't do that dialogue effectively in a board meeting, you have business to conduct. But you have to have those opportunities and some districts do it with coffee with the superintendent, around a topic of a public meeting like expansion of pre-k and invite folks in and have board members present, along with your administration because they need to be there to have the public be able to have that dialogue with the board because it is an important piece. Cutting back that time sometimes may create more frustration and not really solve the issue which is people want to dialogue with the board and they don't have an opportunity to do that but the board meeting is not the place to do it. They don't know that.

Mrs. Ruiz stated the same part "the board has consulted with those" – does having public comments, which we have at the beginning of our meetings and at the end of our meetings, does that satisfy that part of clause (c)? Mrs. Thornton stated yes. Mrs. Ruiz stated the public certainly made their voices heard. At two separate meetings at our worksession and at our general meeting, the public definitely had time to tell us how they felt about that proposed change, because we got to hear their thoughts on it, does that satisfy? Mrs. Thornton stated that does. Mrs. Ruiz stated even though we weren't dialoguing with them but they were consulted. Mrs. Thornton stated they were consulted and then you made the change.

The planning really has to do with setting goals with your administration. You are the ones that should have a vision for what you want education to look like. When we say you will confine your board action to policy making and planning – that planning piece is around goal setting. What are the goals for the district this year? What do you want to see happen? The appraisal refers to the superintendent evaluation. You hold the superintendent accountable for his/her performance and he holds all other staff accountable for their performance.

You will work together to see that the schools are well run but not to run them. Board members do not have any real business being in school buildings on a regular basis unless you have a child in the building. Board members should not be wondering through schools. You only have authority when you are sitting here to do the advertised meeting of the board. The rest of the time you are not different than any other citizen in the community of Union.

Mr. Nufrio stated the other evening we had a regular meeting and some comments were passed by both the public and some board members regarding the suspension percentage etc. My understanding is that would put us in a position that we would be dealing with every day processes meaning as a board and I shared my thoughts with Mrs. Ruiz after the meeting, that is what the superintendent and his staff must determine whether or not there is possibly some violation or irregularities but is it the board's position to say, we need to do this, this and that? My thoughts are it is not the board's place to do that other than to ask the superintendent to review the manual to make sure it is being properly applied and that there is no exaggerated situation or one that is perceived to be solely selecting a group of individuals as opposed to another.

Mrs. Thornton stated I would agree with you that it is an administrator's responsibility but if the board believes or sees or the public perceives that there is a disparity and an over representation which a lot of districts are seeing when they look at disciplinary actions within school districts, it is not uncommon, there is a very large initiative all across the State around equity – we just did a workshop on it – around what are the disproportionate outcomes to both in discipline, AP enrollments, honor class enrollments, co-curricular participation – it is something that the board can ask the superintendent to look at and come back to the board so that you have some sense of is it just a perception or is it real. If it is real then the board can say to the superintendent, what are we going to do to correct this? What kind of restorative justices available to ensure. If kids are not in school, they cannot learn. If they are not in their seats they can't learn. If we are suspending kids or over suspending kids, that is something that needs to be looked at and who is being suspended is important to look at as well. It is the administrations job to look at that, not the board. You are not going through it and making those decisions. But those are appropriate questions to ask. What does this look like? Do we have an issue here? If we do, how are we going to address this to make sure that it is not something that is carried forward.

It is the same thing with a whole host of things. If you look at staff attendance, if you have an outrageous absentee level among staff then there is no continuity of instruction there. You need to ask the administration, what are we going to do to remediate that so that we are sure our staff are there on a regular basis to ensure quality instruction. We know that quality of instruction is the largest determination of a student's success.

There are a whole host of things that you don't get to go in and look at it all, you are asking for your administration for their feedback and input but that is perfectly appropriate for the board to ask those questions. They need to be asked.

Dr. Francis stated that would be part of the appraisal on the superintendent as well. Mrs. Thornton stated absolutely. Dr. Morgan stated that is part of the school report card. Mrs. Thornton stated it is and it is public and it is on your school's performance report and this year but we have not received this information officially, that they are going to include in the school's performance reports individual per pupil spending in each individual school.

Every school gets a performance report and the district gets one but there is the individual school performance report and apparently they are going to look at the per pupil spending at all the individual schools. You might ask why are they doing that – it is simple – different schools have different populations and different demographics so I know in my district we had one Title I school out of all of our elementary and we used to feel really good as a board every year when we budgeted and this is terrible, but no one ever gave it a second thought – we gave every single school the same per pupil amount and we felt good about that. Every child is getting the same thing, aren't we doing a great job. Well not really because the people in the other elementary school that didn't have large English language learners that did not have a huge percentage of free and reduced lunch kids, was getting the same amount of money as the people on the hill whose PTO could earn and did generate \$50-60,000 every year and the Title I school had none of that. There was a disparity but no one really thought about it in that way at that point in time, not that it is an excuse. I think that is why they have gone to that so that you as parents and board members, community members can look at that and say is that equitable. Equal is not equitable. I think that is all part of that movement to make sure that we are providing equitable opportunities for all children. I see that as a good thing and not a bad thing.

The next one is refusing to surrender your judgment to special interest or partisan political groups, not to use the schools for personal gain or the gain of your friends. You should not be carrying in resumes to the superintendent saying hi, hire these people. That is not your role as a board member. What you can say to somebody who wants a job, here's how you go about it. Go to the personnel office and drop off your resume but I can't have anything to do with it.

Holding confidential all information pertaining to the schools, if released could potentially injure staff, students or the school district as a whole and making sure together with your colleagues you interpret to the staff the aspirations of the community for its school. Again confidentially means not your next door neighbor, not your husband or wife, significant other – you have to hold confidential. You have a process for matters that are confidential to become public when the need for confidentiality has passed. There are some items that will never see the light of day – student issues will always be confidential; personnel issues will always be confidential but other kinds of things like the negotiations for the purchase of a piece of property – once you purchase the property, the contract becomes public so there is a process for those things that can become public once the need for confidentiality has passed.

Voting to appoint the best qualified personnel after consideration of the recommendation of the chief administrative officer – again you are not required to vote yes as long as your rationale is not arbitrary and capricious and I would always say as a courtesy to the superintendent, if you have difficulty with a particular appointment, especially for an administrator or high level administrator, you need to let the board president know and the superintendent. You don't want someone in the audience believing that they are going to be appointed and then have egg on the face when it doesn't happen. It is embarrassing to everybody and you don't look professional if that happens.

You are required to support and protect school personnel in proper performance of their duties. What this means – if you have a concern or problem with a staff member, you cannot

discuss that in public, a cocktail party or local diner or anywhere. You need to make sure to notify the superintendent and the board president and say I have a concern or here is what I'm hearing, I want to make you aware. You cannot go out and criticize staff members. Sometimes this is a problem on social media, where board members are talking about members of the staff in closed Facebook groups because they think they are closed but keep in mind everything is (a) discoverable and (b) you all should never participate in any closed Facebook group because you have no way of knowing that you are talking in a group that has a quorum of board members. You may think you are the only member from the board on that Facebook group but it can turn out that a majority of board members belongs to that group and you are all commenting and it is violative of the Open Public Meetings Act. Please be very cautious on social media. I used to say to board members don't put anything in an email or social media if you are not prepared to see it on the front page of the Newark Star Ledger or the local newspaper.

You have to refer all your complaints to the superintendent and only act on those at a public meeting after the failure of an administrative solution.

Mrs. Ruiz stated on (i) – if you are a board member and have children in the school district, if I have a concern with one of my child's teachers, do I still have to copy Mrs. Minneci on the email? Mrs. Thornton stated no, you need to go through the chain of commands. If you have a problem with a staff member, your child's teacher, which means you start with the child's teacher, if you are not satisfied and there is no resolution to that, then you would go to the school principal and work your way up. As a courtesy, I would let the superintendent know but since it is your child, you don't have to let your board president know. You don't need to make your personal child's business public. I'm stunned when the public makes their child's whatever public.

Dr. Francis asked are you able to speak about the teacher's union? The leadership of the teacher's union – not necessarily their job performance but them as an organization that somewhat working with us as a board in getting things done. Mrs. Thornton stated typically when there is negotiations going on there is a mutual agreement that is arrived at when you set the terms and conditions of negotiations which happens – how are we going to do this? Typically both parties agree not to go to the public. Very often going to the public turns it into a contest that no one can win. Sometimes when negotiations drag on for more than a year and you are still negotiating and the teachers start working to rule and putting up signs and then they get parents to put up signs that say “we support our teachers” and they show up at board meetings with all their red t-shirts. Dr. Francis stated I was on the board at the time and I thought I was free to say what I wanted to say. Mrs. Thornton stated and you were. Now that you are a board member, you are not.

Dr. Francis stated the board was very quiet and not addressing the issues where I felt the board knew that the teacher's union was not being truthful and I thought that they should be called out. Mrs. Thornton stated very often that is a sentiment I hear from many board members, it depends on what the ground rules for the negotiations that are set and once you break them, and typically they break them first. If you break them, it can then evolve into a real contest and back and forth where nobody can win. Most boards don't go back and forth verbally. Sometimes with the assistance of a labor negotiator they will put together a statement that

outlines all of the steps that have been taken. The most frustrating for board members is when the union says you are not negotiating in good faith, we are waiting for another meeting and meanwhile you tried to schedule 10 different meetings and they don't come or you have had to cancel the State mediator three times and they are hard to get because the union won't show up. Sometimes boards will put out a statement around process not we offered you 2.5, you want 6.8 – not all of the nitty gritty detail but more of a process piece because that doesn't tend to turn into as much of a contest going back and forth. Sometimes you win and sometimes you can't. It is hard to know what is the best thing to do.

There is a labor collaborative that is being run out of Rutgers by Saul Rubinstein, a professor at Rutgers, that we are involved in with several districts that essentially looks at win-win negotiations that it is more of a collaboration than it is an adversarial process. How successful that is I don't know. Some boards have had great success with it; other boards less so. Some of it depends on how militant your union and association is and how flexible. Some of it depends on the leadership of the union which often times has left the rank and file with incorrect information or no information when you hear from other teachers. They don't know anything about anything because they are not being told by their association leadership. That is not an uncommon phenomenon either. It is just at its heart an adversarial process that is very frustrating and difficult to navigate so we typically don't advise going back and forth with them but if you get to that point, certainly use your board attorney and make it process based rather than we offered this, you countered that and they are going to say outrageous things. They will come to the podium and say you are trying to take away our healthcare, you are trying to starve us, my first born doesn't have any shoes and it is this back and forth.

Here are some of the 2019 SEC Commissioner Decisions – a member shared information about a student discipline incident with his immediate family and then it was shared with outless others – this person was found guilty and was censured for that.

A member approached a subordinate employee of the DSA to inquire if she was interested in assuming the position of CSA even though it wasn't vacant – only got a reprimand. It is unclear on how they arrive with the punishment.

A member attended a local union meeting without board approval and told teachers that they had the board's support and the board was exploring all options to remove the superintendent – 60 days suspension. Completely undermined the superintendent.

During a traffic stop a member presents herself as a board member, indicates her relationship to a local official, using inappropriate language and she was also intoxicated – 30 days suspension. Dr. Morgan stated that was my school district. Mrs. Ruiz asked they didn't get removed for that? Dr. Morgan stated she lost re-election. Mrs. Ruiz stated that is such an abuse of power. Mrs. Thornton stated I'm so stunned that they would try it. Dr. Morgan stated she ran again. Mrs. Thornton stated in my town police officers wouldn't even know what we did.

A member's wife is a teacher in the school and he owns a business near the school so he regularly enters the school without signing in. Also met with a school secretary to encourage her to make a statement that he was being blackmailed by the administration to keep an incident

hidden. He wanted this employee to collaborate with him to go after the administration. He was censured but he had already finished his term by the time he adjudicated it.

Mr. Nufrio left meeting at 6:45 p.m.

Conflicts of Interest – you can't have any business in the district, you can't use your position to secure unwanted privileges. You can't take any gifts. You can't have any personal involvement – it creates an individual benefit to you than is better than anybody else. You can use service or employment. This is for immediate family members.

Immediate family members is defined as spouse or dependent child – not an emancipated child who is grown up and out of the house – dependent child residing in the same household. No vote and no discussion. If a family members has a business and wants to do business in the district or has or you are employed by a company that is a vendor to the district, you should not participate – no vote, no discussion.

The accountability regulation of an immediate family member – spouse/civil union, domestic partner, dependent child residing in the same household, and in many SEC decisions they have used the broader definition under the nepotism law. That includes, parents/stepparents, in laws, child/stepchild, stepbrother, stepsister, half-brother, half-sister, aunts, uncles, nieces, nephews, grandparents, grandchild – it is a very broad definition. Whether related to the school official or their spouse/partner, by blood, marriage or adoption. They have included everybody. Mrs. Richardson stated in the school district that you are a board member. Mrs. Thornton stated correct.

Hiring/Personnel – you may not hire a relative of a board member or a relative of the chief school administrator. There may be an exception. The exception is if you cannot find someone who is qualified for a position in your school district. They can be the exception. Here is what I think the exception looks like in most counties – that you have certifications for AP positions and also world language. They are not going to let you do that for an elementary school teacher or secondary teacher. You would have to have some extraordinary certification that made you so rare that you fit a unique position. The executive county superintendent would have to sign off on it before you could hire that person.

An administrator may not exercise authority over a relative of that administrator. A board member may not take part in employment matters concerning the CSA in the chain of command and a board member may not take part in the search, selection or anything to do with hiring a CSA if you have a family member employed in this district and the broader definition of relative.

Collective Bargaining – if you have a spouse, dependent child or child (not a dependent), relative who works in the district, you can't participate in negotiations, you cannot vote to ratify the contract. If you have yourself, your spouse, your dependent child who works in another district, you may not participate in negotiations but you can ratify the contract after all the salary guides are done and ready to go.

If you have a child that is not a dependent, and does not live with you, you are not paying for their living, works out of district you may participate and you may vote on the contract, absent any other conflict. The other conflict would be heightened union activity. If you have a non-dependent child working in another district, if they are an officer of their district's union, a building rep or they are on the negotiating team of that district, that is considered heightened union activity and you would be out. Absent that you can fully participate. That is a change that is not even two years old.

Other possible conflicts – if you are supervised by employees in the unit, not in the unit, but terms of employment linked to unit, immediate family member/relative has heightened union involvement – those are the disqualifiers and I don't think anyone here has those issues.

There is a major change – endorsement of a candidate by a local or statewide union does not create a per se future conflict unless a financial contribution is given and is intended to influence the member. Mrs. Ruiz asked who establishes that intent? Mrs. Thornton stated that is a good question. Why else would they give you money? Mrs. Ruiz stated that is the great question. Mrs. Thornton stated prior to this advisory opinion that you had to sit out for a year if the union endorsed you. So if I ran for election and the union endorsed me during my election, I could not participate for a full year of negotiations. Dr. Francis asked is that for teachers, administrators? Mrs. Thornton stated for an administrative bargaining unit or teachers unit – typically administrator units don't endorse board members. The only association that endorses board members typically is the teacher's association. Dr. Francis asked can you be on administrator's negotiations? Mrs. Thornton stated you could but now they decided it is not an automatic conflict. It used to be automatic – you are out. Mrs. Ruiz stated how can you ever beat that – it is impossible to prove intent unless someone writes a letter saying I'm donating this money and you have to vote for. You can't prove intent without a smoking gun. Mrs. Thornton stated I don't think out of their goodness they are giving candidates money. Mrs. Ruiz stated if it was really a good faith donation, they would donate to all the candidates but they are not because they are specifically choosing to endorse and/or more than one candidate.

Doctrine of Necessity – is a legal document that says if you have too many board members who are conflicted out of participating in negotiations or hiring a superintendent, you can invoke the doctrine of necessity. You read it out loud, you post what everybody's conflicts are, you have to post it for 30 days and then once that happens everybody that is conflicted can come back in because you can't hire a superintendent without the affirmative vote of the full majority of the board. I did a search in a district where there are only two board members who could participate. The only time you can invoke the doctrine is for hiring because the law says you need the full majority of the board. Dr. Francis stated as long as you have five, you can't invoke that.

Volunteerism – board members are not banded from volunteering in the school but again it has to do with the amount of contact time – taking direction or giving direction to staff and actively engaging yourself in the everyday activities of the school. You need to avoid that.

You can ask these questions (see page 16 of presentation) – if you can answer “no” to all of these questions, then it is probably o.k. to volunteer. You can be an officer of the PTO, that is

not a problem, but you can't be a volunteer coach – anything that has too much contact time with either students or staff or you are giving direction, taking direction or handling money. Never handle the money of the schools.

Mrs. Ruiz stated even if you are parent and a board member, you can't. I have pulled back a lot of my volunteering at the school because I was concerned about the grayness of this area. My concern is that we probably shouldn't while we are board members. Mrs. Thornton stated yes you can. Any kind of one time activities – read across America, you can be a classroom mom, you can coordinate play dates. You just don't want to be in the classroom giving directions to staff and/or interacting with students. It is unfortunate. Most board members either have kids in school or did have kids in school and they got involved because they did have kids in school and we are lacking volunteers and there are only so many parents that have the time or the inclination or both to want to do that.

Interview committees – board members involvement in interviews is not encouraged for those positions other than superintendent. Although with the permission of the superintendent, one or two board members can observe and make assessments for high level administrative positions and that is generally supervisors, directors, principals and above. You cannot conduct exit interviews. The exit interview piece is old. Those committee pieces are new; they don't agree with each other. If you can sit in and provide an assessment and observation, why can't you sit in an exit interview and provide an assessment and observation?

Points to consider – we recommend that if you have conflicts that your board attorney look at those and keep a list because they change over time. Continue to look at School Board Notes and stay up to date on the most recent advisory opinions. The last one had to do with negotiations and a board member that went after a teacher on social media and said she was earning three times the amount of money that she was actually earning. Said she got her job through patronage and they suspended her. You have to be careful because you don't know who is going to write what. Always make sure you protect the public trust and serve the public and the board and re-evaluate any potential conflicts of interest.

In closing – there are links to all of these pieces so if you want to go look at those, you can go online and you can read them.

Dr. Francis stated I have two policies that we are looking at. One of the policies is about re-employment. About three years ago we voted on a policy to essentially ban employees who left the district from coming back for a term of five years and they want to reduce it back down to three years. Mrs. Thornton asked why? I'm curious of the genesis of that. Dr. Francis stated the genesis of that policy was to keep one particular person from being able to be rehired. It was restricting the superintendent and/or the board from rehiring that person. Mrs. Thornton stated the board can vote "no". Dr. Francis stated I thought about the policy only because I know what the intent was. Mrs. Thornton stated that is not a good policy. Dr. Francis stated I thought it was good at the time because of my own personal opinions but you are right. It is not a good policy it is really the superintendent. As she said you can say yes or no to any hiring and this policy basically restricts the superintendent from being able to choose the very best people. Dr. Morgan stated talk about interfering. Mrs. Thornton stated it is micro-managing and it is also a bad

policy. If the person ever understood, you could be sued for discrimination. It is not a good policy.

Dr. Francis stated the second policy was about if we leave the board as board members, the State says that we can't be hired by the district for at least six months; they want to extend to two years. Mrs. Thornton stated my district did that. It was to send a message to the public that no member of the board was on the board for their own self-interest. You don't have to go beyond the 60 days in the policy, you have to comply with the law, but there are many boards who have gone longer because they want to send the message to the public that board members are not there to get themselves jobs.

Dr. Francis stated there is similar one that is if we leave the board, we cannot become mayor. Mrs. Ruiz stated he asked our board attorney to look into it and there is nothing that prohibits a board to make the policy but you can't enforce it. Mrs. Thornton stated it is not enforceable. If you can't enforce a policy, there is no purpose in having it and it makes you look absurd. Dr. Morgan stated the mayor in Hillside resigned from the board to run for mayor. If I resign from this position, the policy states that I can't run for committee. Mrs. Richardson stated we had a board member that left and filled an unexpired term of a freeholder. Dr. Morgan stated you can't control that. Mrs. Thornton stated I think that is problematic if someone gets on the board and their sole goal is to build their resume for a bigger political career. But you can't control that. Dr. Morgan stated but that does happen. Mrs. Thornton stated it does a lot but you can't stop that – you can't legislate people.

Dr. Francis stated I might want to coach. Mrs. Thornton stated then you will have to resign from the board and wait 60 days. Mrs. Ruiz stated or two years if it passes. Mrs. Thornton stated you mean coaching to get paid. Dr. Francis stated I don't care about getting paid, I just want to volunteer. Mrs. Ruiz stated if he isn't on the board any more, if we want to coach and we are not getting paid, that policy wouldn't apply. Coach away Dr. Francis. That policy that says you have to wait two years to be employed by the district, if you coach on a volunteer basis then you are o.k. Mrs. Thornton stated volunteering is different

Mrs. Ruiz stated one of the slides says you can't discriminate on age, all the protected groups; Governor Murphy passed a law in December that there cannot be any hair discrimination now. I'm thinking our policy committee should look at our HIB policy it probably needs to be updated to include that category.

Mrs. Thornton stated let me give you another one, in the State of New Jersey, you can't ask what a person currently makes. Dr. Morgan stated I love that. Mrs. Thornton stated your salary is public record. Dr. Morgan stated it is not updated, I just checked. Mrs. Thornton stated you can inflate it generally about 2% and come really close. We do superintendent searches and one of the things we have always asked is "what is your current salary?" It is in the user friendly budget. It is available to the whole public and now we can't ask that and I have to go hunt it down.

Dr. Morgan stated I think when you put your salary for a position, my experience was I didn't get the interview because my salary was too high. I think it was fair for them to bring me

in and because of the position I may take a pay cut. You never know. Mrs. Minneci stated you may want that job. Dr. Morgan stated exactly so when I read that I thought it was fair. Mrs. Thornton stated I'm not saying it is not fair I'm just saying I think it is ironic because public school employment, everybody's salary is essentially public. Dr. Morgan stated I do check because if I'm applying for a position, I want to see what the previous person made before me so I can negotiate. Mrs. Thornton stated you can't even ask which would seem to me you can't say "what are your salary expectations?" – which would allow you to let the HR person to have some sense of if this person is in the ballpark or not.

Presentation appended to minutes.

MOTION TO ADJOURN:

There being no further business before the Board in public session it was moved by Dr. Morgan, seconded by Mrs. Higgins, that the meeting be adjourned at 7:21 p.m.
All present voting YES.

MOTION CARRIED

RESPECTFULLY SUBMITTED,

**MANUEL E. VIEIRA
BOARD SECRETARY**