

## Invoking the Doctrine of Necessity

The following is in order for board adoption:

### **RESOLUTION**

**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 State Department of Education promulgated N.J.A.C. 6A:23A-6.2, which places additional standards and restrictions upon the ability of a board member to vote on a particular issue; and

**WHEREAS**, the Board is required by law to participate in collective bargaining with its unions; and

**WHEREAS**, the Plainfield Board of Education desires to adopt the terms of agreement as set forth in a Memorandum of Agreement between the aforesaid Board and the Plainfield Education Association, which shall, after adoption and ratification by the parties, form the basis of the collective bargaining agreement covering the period from July 1, 2009 through June 30, 2012; and

**WHEREAS**, the Board Attorney has reviewed the State regulations and the advisory decisions of the Commission and determined board member conflicts prohibit five members of the Board from voting on the Memorandum of Agreement and corresponding collective bargaining agreement; and

**WHEREAS**, the five board member conflicts are as follows:

Lenny Cathcart's sister is a teacher's aide for the school district;

Wilma Campbell's sister is the special labor negotiations attorney for the school district;

Lisa Logan-Leach's mother is a teacher for the school district,

Katherine Peterson's brother and nephew are custodians for the school district,

Renata A. Hernandez has a cousin who is a security guard and a cousin employed by the district as a research technician for the school district,

**WHEREAS**, in addition to the aforementioned conflicts, a conflict exists in view of the endorsement of the PEA of board members, Wilma Campbell, Rasheed Abdul-Haqq, Renata Hernandez and Keisha Edwards,

**WHEREAS**, the inability of the aforementioned board members to participate in collective bargaining as required by state law, will result in a lack of a quorum necessary to approve the aforesaid Memorandum of Agreement and corresponding collective bargaining agreement; and

**WHEREAS**, in order to adopt and ratify the terms of the MOA between the Plainfield Board of Education and the Plainfield Education Association for inclusion into the new collective bargaining agreement covering the period between July 1, 2009 to June 30, 2012, as required by law and contract, the Board desires to invoke the Doctrine of Necessity, in accordance with the procedures established by the Commission.

**NOW, THEREFORE, BE IT RESOLVED**, by the Plainfield Board of Education, County of Union, State of New Jersey, as follows:

1. That the aforementioned members, in addition to endorsement by the PEA are prohibited from participating in all collective bargaining for such time as members of their family are employees of the school district; and
2. That the Board therefore invokes the Doctrine of Necessity in order to allow the full body of the Board to adopt and ratify the Memorandum of Agreement and corresponding collective bargaining agreement between the Plainfield Board of Education and the Plainfield Education Association for the July 1, 2009 through June 30, 2012 term in accordance with state law and contract;
3. That this resolution shall be read at a regularly scheduled meeting of the Board and be posted on the Board's website.
4. That a copy of this resolution shall be forwarded to the School Ethics Commission.