

**The Board of Education of Moorestown Township
Moorestown, New Jersey
MINUTES
Administration Building
February 21, 2018 – 5:30 p.m.**

I. Call to Order

The Special Meeting of the Moorestown Township Board of Education is called to order. This meeting is called in conformance with the "Open Public Meetings Act" with adequate notice provided as follows:

- A. Notice filed with the Courier Post on February 16, 2018
- B. Notice filed with the Burlington County Times on February 16, 2018

II. Pledge of Allegiance

III. Roll Call

- X Mr. Jack Fairchild
- X Mrs. Tinamarie Nicolo-Dorfner
- X Mr. Brandon Pugh
- X Ms. Lauren Romano
- X Mr. Dimitri Schneiberg
- X Mr. Mark Villanueva
- X Mr. Maurice Weeks

- X Mr. David A. Weinstein, Vice President
- X Dr. Sandra Alberti, President

- X Mr. John Comegno, Esq., Solicitor
- X Dr. Scott McCartney, Superintendent
- X Mrs. Joanne D'Angelo, Business Administrator/Board Secretary
- A Ms. Carole Butler, Director of Curriculum and Instruction
- A Dr. David Tate, Director of Special Education
- A Mrs. Debora Belfield, Director of Personnel
- A Mr. Jeffrey Arey, Director of Instructional Technology

IV. Public Comment - none

V. School Ethics Training – Comegno Law

Mr. John Comegno presented school ethics training as per the attached.

VI. Board Communication and Transparency

The board discussed communication and transparency.

- a) Purpose
- b) Internal Communications
 - i) Email
 - ii) Committee Meetings
- c) External Communications
 - i) Personal Communication and Board Communication
 - (1) Email/Text
 - (2) Social Media
 - (3) Print Media
 - (4) Public Meetings

VII. Board Goals

The board discussed board goals.

- a) Board Operations – Improve Committee Effectiveness through established Committee Charters and Communication expectations.
- b) Community Engagement – Establish increased opportunities to enhance community interaction with the school district and the Board of Education.
- c) Curriculum – Support the District to Move to a Progressive Learning Process/System where Every Student can reach their own Potential. (College, Work, Military).
- d) Overlap with vision for World Class Learner
- e) Specific Action Steps
 - i) Establish sharing of agendas and minutes via Google Drive
 - ii) Host community input forums

VIII. Adjournment

The meeting adjourned at 9:30 p.m.

Respectfully submitted,

Joanne P. D'Angelo
Board Secretary

SCHOOL BOARD ETHICS

MOORESTOWN PUBLIC SCHOOLS

FEBRUARY, 2018

JOHN B. COMEGNO II, ESQUIRE




COMEGNO

LAW GROUP, P.C.

THIS PRESENTATION **DOES NOT** REPLACE INDIVIDUAL ETHICS TRAINING REQUIRED FOR ALL NEWLY ELECTED OR APPOINTED BOARD MEMBERS.



Governing body of the school district
Charged with high level, policy-making decisions
Only entity can enter into contracts or other binding agreements
Decision-making authority limited – cannot administer the schools
May not act in many situations without CSA recommendation.
Governed by Code of Ethics; N.J.S.A. 18A:12-24.1, et seq.




Code of Ethics N.J.S.A. 18A:12-24.1(a)
“Uphold All Laws”

Act Contains 10 Items Members Must Follow:

1. I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures.

Evidence of Violation:

- A. Copy of a final decision from any court of law or administrative agency of this State demonstrating that the Board member failed to enforce all laws, rules and regulations of the State Board of Education; or
- B. Court orders pertaining to schools; or that the board member brought about changes through illegal or unethical procedures.



Code of Ethics N.J.S.A. 18A:12-24.1(a)
"Uphold All Laws"

C58-14: Board member violated the Code when he attempted to issue a Board employee a Rice notice without following the proper legal procedure of seeking Board authority or consulting with the Board.

C11-04: President of the Board violated the Code when he took it upon himself to contact someone hired by the Board to tell them that their appointment was void because he had directed the Superintendent to remove the individual's name from the agenda but the Superintendent failed to do so. Board member was ultimately removed.



Code of Ethics N.J.S.A. 18A:12-24.1(b)
"Educational Welfare"

2. I will make decisions in terms of the educational welfare of children and will seek to develop and maintain public schools that meet the individual needs of all children regardless of their ability, race, creed, sex, or social standing.

Evidence of violation:

- A. That Board member willfully made a decision contrary to the educational welfare of children; or
- B. That the Board member took deliberate action to obstruct programs and policies designed to meet the individual needs of all children, regard-less of their ability, race, color, creed or social standing



Code of Ethics N.J.S.A. 18A:12-24.1(b) "Educational Welfare"

C18-10: Board member violated the Code when he released an ethics complaint filed against another board member to the media which contained confidential information regarding the other board member's student child.

A05-15: Conflicted Board members could not participate in any matter related to the search, hiring of selection agency, criteria, job description, or vote to advertise relating to the hire of a new Superintendent as their decision-making abilities may not be focused on the educational welfare of children, but rather, their relationships with Board employees in district.



Code of Ethics N.J.S.A. 18A:12-24.1(c) "Limited to Policy Making"

3. I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

Evidence of Violation:

- A. That the Board member took board action to effectuate policies and plans without consulting those affected by such policies and plans; or
- B. Took action that was unrelated to the member's duty to:
 - i. Develop the general rules and principles that guide the management of the school district or charter school;
 - ii. Formulate the programs and methods to effectuate the goals of the school district or charter school; or
 - iii. Ascertain the value or liability of a policy.



Code of Ethics N.J.S.A. 18A:12-24.1(c)
"Limited to Policy Making"

C16-14: Board members conducted a site visit to assess a candidate for Assistant Superintendent, without Board authority

A10-15: Board member violated the code when he regularly volunteered for a school club, wherein he had contact with and control of students, personnel, resources, and administration. Additionally, he would receive orders from personnel/administration. The Board member failed to confine his actions to policy making, planning, and appraisal. The Commission does not find that all forms of volunteering are prohibited.



Code of Ethics N.J.S.A. 18A:12-24.1(c)
"Limited to Policy Making"

C32-14: Board member violated the ethics code when she participated in discussions to develop criteria for use by a consulting firm in its search for the district's next Superintendent when her daughter (who resides with her) is an employee of the same district in which she sits as a Board member.



Code of Ethics N.J.S.A. 18A:12-24.1(d)
"No Micromanaging"

4. I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.

Evidence of Violation:

- A. That the Board member gave a direct order to school personnel; or
- B. The Board member became directly involved in activities or functions that are the responsibility of school personnel or the day-to-day administration of the school district or charter school.



Code of Ethics N.J.S.A. 18A:12-24.1(d)
"No Micromanaging"

A10-15: Board member violated the code by attempting to administer the schools when he volunteered for a school play and had supervisory authority over students and personnel.

C40-10: Board member violated the code by instructing the Superintendent to allow a graduating senior to participate in graduation ceremonies when the Superintendent had barred the student from participating in the ceremonies due to safety concerns. The police had reported that there were threats that the student was the target of a shooting and the board member was aware of the report.



Code of Ethics N.J.S.A. 18A:12-24.1(d)
"No Micromanaging"

C64-06: Board member violated the code when he unilaterally visited the school and took pictures of open windows in the middle school and items in the Board office bathroom, which he then spoke to reporters about.

A15-10: Board member would violate the act by participating in an exit interview or merely observing the exit interview, as it would breach the board member's obligation to refrain from becoming directly involved in activities that are the responsibility of school personnel and would equate to micromanaging school personnel.



Code of Ethics N.J.S.A. 18A:12-24.1(e)
"No Personal Promises/Private Action"

5. I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

Evidence of Violation:

- A. That the Board member made personal promises or took action beyond the scope of his or her duties such that, by its nature, had the potential to compromise the Board.



Code of Ethics N.J.S.A. 18A:12-24.1(e)
"No Personal Promises/Private Action"

C16-14: Board members violated the Code when they made personal promises to a candidate for Assistant Superintendent by advancing the possibility of his employment with the District and promising to resolve a contract issue for the district, which had the potential to compromise the Board.

A44-14: Board member, who was employed as an aide in a private day care center that contracts with the school, must recuse himself from any participation related to the contract between the Board and the day care center so as to ensure that he takes no action that might compromise the Board.



Code of Ethics N.J.S.A. 18A:12-24.1(e)
"No Personal Promises/Private Action"

C11-04: Board president violated the Code when he unilaterally contacted someone newly hired by the Board to tell them that their appointment was void because he had directed the Superintendent to remove the individual's name from the agenda but the Superintendent failed to do so.



Code of Ethics N.J.S.A. 18A:12-24.1(f)
"No Personal Gain"

6. I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

Evidence of Violation:

- A. That the Board member took action on behalf of, or at the request of, a special interest group or persons organized and voluntarily united in opinion and who adhere to a particular political party or cause; or
- B. That the Board member used the schools in order to acquire some benefit (financial or otherwise) for the member a member of his or her immediate family or a friend.



Code of Ethics N.J.S.A. 18A:12-24.1(f)
"No Personal Gain"

C36-14: Board members may endorse candidates up for election to the Board if the endorsement is made as a private citizen and not as a Board member or on behalf of the Board.

A29-14: Board member who owned/operated a business could not continue, in connection with educational foundation, to offer a fundraiser charging students and splitting profits between the business and foundation, as could be perceived as using position for personal gain.



Code of Ethics N.J.S.A. 18A:12-24.1(f)
"No Personal Gain"

A33-14: A Board member, also employed by a company that sells vocabulary books to the district, would not violate the code by participating in Board actions relating to the Superintendent or any other administrative position as he was a salaried employee with no interest in the company and was not responsible for sales.



Code of Ethics N.J.S.A. 18A:12-24.1(g)
"Maintain Confidentiality"

7. I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

Evidence of Violation:

- A. That the Board member took action to make public, reveal or disclose information that was not public under any laws, regulations or court orders, or information that was otherwise confidential by way of board policies, procedures or practices. or
- B. Evidence that substantiates the inaccuracy of the information provided and evidence that the inaccuracy was other than reasonable mistake or personal opinion or was not attributable to developing circumstances.



Code of Ethics N.J.S.A. 18A:12-24.1(f)
"No Personal Gain"

A13-14: Board member may continue his position as a freelance journalist; however, he must not report on Board issues and he must ensure that no information is disclosed that was discussed solely in executive sessions.

C44-07: Board member violated the code by publicly posting confidential information that the staff member was removed from the school and hospitalized for a medical condition.



Code of Ethics N.J.S.A. 18A:12-24.1(f)
"No Personal Gain"

A24-14: Conflicted Board members may not participate in the Board's search for a new Superintendent as confidential matters pertaining to search criteria, etc. might be disclosed by the Board member.

A02-06: Board member would not violate the code by sending a letter to the editor expressing his opinion about the budget or making a statement to the press, so long as, in the letter or statement, you do not hold yourself out as a board member and the information is accurate and not confidential.



Code of Ethics N.J.S.A. 18A:12-24.1(h)
"Consider CSA's Recommendation"

8. I will vote to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer.

Evidence of Violation

- A. That the Board member acted on a personnel matter without a recommendation of the chief administrative officer.



Code of Ethics N.J.S.A. 18A:12-24.1(h)
"Consider CSA's Recommendation"

C35-02: Board members did not violate the Code when they voted not to reappoint an employee to her former position with the district despite the contrary recommendation of the principal and superintendent.

The Commission found that N.J.S.A. 18A:12-24.1(h) does not require the board to accept all recommendations of the CSA. Board members must, however, consider all recommendations and dismiss those that are arbitrary or capricious.



Code of Ethics N.J.S.A. 18A:12-24.1(h)
"Consider CSA's Recommendation"

A04-12: Held that a Board member may participate on an interview committee established to interview candidates for high-level administrative and supervisory positions; however, Board member participation must be limited to offering observations and assessments, and the final recommendations are within the purview of the Superintendent.



Code of Ethics N.J.S.A. 18A:12-24.1(i)
"Support District Personnel"

9. I will support and protect school personnel in proper performance of their duties.

Evidence of violation:

- A. That the Board member took deliberate action which resulted in undermining, opposing, compromising or harming school personnel in the proper performance of their duties.



Code of Ethics N.J.S.A. 18A:12-24.1(i)
"Support District Personnel"

C49-07: Board member violated the Code when he sent a letter to the Superintendent, copying the President of the State Board of Education and Executive County Superintendent, accusing the Superintendent of allowing his employees to violate Board Policy.

C53-05: Board member violated the Code when he sent an email to the Superintendent (that was also sent to BA and all other Board members) that was threatening and intimidating in that it asked for the Superintendent to provide an accounting of her personal leave.



Code of Ethics N.J.S.A. 18A:12-24.1(i)
"Support District Personnel"

C25-11: President of the Board member violated the Code by posting comments the following comments on his Facebook page and a link to a picture of the Superintendent: "Now if we could only do something about our local terrorists that destroy dreams and burn futures."



Code of Ethics N.J.S.A. 18A:12-24.1(j)
"Proceed Through Proper Channels"

10. I will refer all complaints to the chief administrative officer and will act on the complaints at public meetings only after failure of an administrative solution

Evidence of Violation:

- A. That the Board member acted on or attempted to resolve a complaint, or conducted an investigation or inquiry related to a complaint:
- i. Prior to referral to the chief administrative officer; or
 - ii. At a time or place other than a public meeting and prior to the failure of an administrative solution.



Code of Ethics N.J.S.A. 18A:12-24.1(j)
"Proceed Through Proper Channels"

C25-05: Board members violated the Code by going to the Principal directly in connection with a parent complaint that he had received rather than referring the complaint to the Superintendent.

C24-07: Board member violated the Code by not providing Superintendent with letters because he did not like the Superintendent's management of issues raised in the letters. Instead, Board member went to other administrators to address the issues.

Administration of schools **by the Administration.**



Conflicts – Definitions Ethics Act v. Nepotism Regulations

Ethics = “Member of immediate family” / “Relative” / “Others”	Nepotism = “Relative”
<p>Immediate Family (N.J.S.A. §18A:12-23)</p> <ul style="list-style-type: none"> ● Spouse or Partner ● Dependent Child residing in same household <p>Relative (N.J.S.A. §18A:12-23)</p> <p>Spouse or Partner</p> <ul style="list-style-type: none"> ● Child (natural or adopted) ● Sibling ● Parent <p>“Others” – A11-15: An individual who meets the definition of “relative” under nepotism regs will be considered and “other” under the Ethics Act</p>	<ul style="list-style-type: none"> ● Spouse, civil union or domestic partner ● Parent or Step-Parent ● Child or Step-Child ● Sibling, Half-Sibling or Step-Sibling ● Aunt or Uncle ● Niece or Nephew ● Grandparent ● Grandchild ● In-laws ● Of you OR your spouse/partner by blood, marriage or adoption

Breakdown of Participation

	In-District	Out of District
Immediate Family Member	Conflict	Conflict
Relative	Conflict	Maybe*
“Other”	Maybe*	Maybe*

***Must consider the following (See A11-15; A16-15):**

Is the out-of-district relative/other an officer in the NJEA or local education association?

Is the out-of-district relative/other on the negotiating team for that district?

Does the out-of-district relative/other have some other leadership role which may influence the outcome of negotiations in the other district?

Conflicts – Immediate Family Members

If a BOE member has an **IMMEDIATE FAMILY MEMBER** that is a member of the same Statewide Union (i.e., NJPSA, NJEA) he/she cannot:

- Discuss or vote on the proposed agreement
- Participate in any way in negotiations
- Be present in Executive Session when negotiations are discussed

However, once a tentative MOA is reached that includes salary guides and total compensation package, he/she may participate.



Conflicts – Relatives In-District

If a BOE member has a **RELATIVE** or **IMMEDIATE FAMILY MEMBER** that is a member of a **LOCAL** bargaining unit he/she cannot:

- Discuss or vote on the proposed agreement
- Participate in any way in negotiations
- Be present in Executive Session when negotiations are discussed



Conflicts – Staffing Companies?

Advisory Opinion A24-17

- Advised that the employment of a Board member's sister by a substitute staffing company that had a contract with the Board for substitutes would NOT conflict the Board member from negotiations or from participating in all issues concerning the District's Superintendent, Building Principal or Budget.



Conflicts – Substitutes?

Advisory Opinion A30-14

- Advised that where a Board member's spouse is employed as a substitute teacher in-district, the Board member may not participate in any personnel matters of those in chain of command over Board member's spouse.



Conflicts – Non-Traditional Education Union Membership

Advisory Opinion A32-17

- Membership in a non-traditional teachers' union (i.e., not NJEA or American Federation of Teachers) will not preclude or conflict a board member from participating in negotiations unless:
 - There is a financial relationship or nexus between the local association(s) and the non-traditional teachers' union of which the board member or board member's immediate family member, relative or other is a member.



Doctrine of Necessity

Where so many board members have ethical conflicts that the board cannot function, then a board may use the Doctrine of Necessity which will allow the board to function as if no member had a conflict.

- Board must pass a resolution invoking doctrine, reasons for it, and the nature of the conflicts.
- Doctrine allows voting and, in limited circumstances, participation in negotiations.
- Board should consult with attorney before using Doctrine of Necessity.



Doctrine of Necessity

Advisory Opinion A28-17 -- Invoking the Doctrine to form a Committee

- SEC does not require at least three members to be on a Board Committee.
- Permissible to have only two members on a Committee.
- But cannot have only one member on a Committee
 - If there is only one non-conflicted member, then the Board can invoke the Doctrine of Necessity in order to form a Committee.



Interview Process

Advisory Opinion A31-15 (Jan. 2016)

- Each Board of Education may decide if it wants a Personnel Committee.
- SEC **does not** support Board members conducting interviews for positions below Superintendent.
- If a board forms a personnel committee, **no more than 1 or 2** board members may participate.
- Participating members have a limited role.



Interview Process

Advisory Opinion A31-15 (Jan. 2016)

- Board members may not conduct the interview but may offer observations and assessments.
- Final recommendations are “wholly within the purview of the Superintendent.”
- Selecting candidates and making recommendations is solely the role of the Superintendent. (NJSA 18A:27-4.1)
- Before a recommendation is made for hiring, board members have no role except when selecting a Superintendent.



Volunteering

Advisory Opinions A32-14; A10-15; A17-15 and A-24-15

SEC concerned with “degree of involvement” with staff and students that a Board member could have with students

SEC also concerned with extent to which volunteering Board member has authority to give and receive directions to/from staff during the volunteering activity.

- No supervision of staff and students.

Should advise Superintendent and relative staff that you will be volunteering and when doing so you are in your capacity as a volunteer/parent – NOT as a BOE member.



Volunteering

But, see A17-15: Held that board members are not entirely precluded from volunteering; rather, it is fact-specific.

- SEC looks to degree of involvement a Board member had with staff and students, as well as the degree to which the Board member had authority to give and receive directions and order to staff during the volunteering activity.
- Where a Board member is in a supervisory position and generally oversees staff or students, such an interaction would be inconsistent with the Act and violate Act.



Bus Driver

Advisory Opinion A18-17

- Board member who is employee of a busing company that contracts with the District to provide transportation to students can transport District students on a daily basis to and from school, even though bus driver has supervisory role over students, enforces school rules. and interacts with staff and students on a daily basis.
- Difference between private employment and volunteering
 - Getting Paid – Contact OK
 - Not Getting Paid – Contact Not OK



Current Students?

Advisory Opinion A36-17

- Held that a 18 yr. currently enrolled student elected to the Board was not automatically conflicted and could participate in the following:
 - Personnel discussions and votes
 - Negotiations and Grievance Hearing with teachers' union
 - Volunteer for school related activities (same as others)
 - Student Discipline and Residency Hearings and Matters
 - Votes for class trips, club trips and/or competitions
 - Votes for the establishment of new clubs, sports
 - Votes on policies related to pupils or personnel.



OPRA

"Government record" or "record" means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material. N.J.S.A. 47:1A-1.1.



OPRA

Government records shall be readily accessible for inspection, copying, or examination by the citizens of this State, with certain exceptions, for the protection of the public interest, and any limitations on the right of access accorded by P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, shall be construed in favor of the public's right of access.

N.J.S.A. 47:1A-1.



OPRA

The purpose of OPRA is access to the public, and the definition of Government record covers "information stored or maintained electronically." However, if the information contained in the email or social media posting is personnel in nature, then it need not be disclosed. OPRA limits disclosure of personnel information to an individual's name, title, position, salary, payroll record, length of service, date of separation and reason therefore, and the amount and type of any pension received. N.J.S.A. 47:1A-10.



OPRA

Verry v. Fire District No. 1 (GRC 2014-387)

Similar to email, text messages are government records subject to OPRA so long as “made, maintained or kept on file in the course of his or its official business,” including those generated between public employees and/or officials outside of working hours, meetings, or on non-publicly-owned devices.

To hold otherwise and different than email would be to encourage an “abrogation” of OPRA through text communication.



QUESTION & ANSWER

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COMEGNO
LAW GROUP, P.C.