

## **RESOLUTION NO. 1**

### **SYNOPSIS**

Resolution No. 1 from the Lodi Board of Education (Bergen County) proposes **new** policy language supporting the requirement that a board member with a term of office extending beyond the next election must resign the seat currently held before submitting a nominating petition to stand as a candidate for a for a seat different than the seat currently held by the member.

### **BACKGROUND**

The Lodi Board of Education feels strongly about maintaining uniformity, integrity and fairness in the board member election process. As such, the board requests that NJSBA adopt policy language stating that a board member with a term of office extending beyond the next election must resign the seat currently held before submitting a nominating petition to become a candidate for a seat different than the seat currently held by the member. The Board believes the law has been clear on this matter, dating back to Kueken v. Guzman, 1990 S.L.D. 527. As such, the aforementioned policy language is proposed to ensure uniformity, integrity and fairness in the school board election process.

### **RELEVANT NJSBA POLICY**

The NJSBA has no policy specifically on point with the requested resolution language. Policies tangentially related to the issue, which address board member terms of office, uniformity in school elections and vacancies, are included below for informational purposes.

#### **File Code 9110 [In Part]:**

##### Board Member Term of Office

A. The NJSBA believes that the current three-year term for board members should be maintained. While NJSBA recognizes the many problems engendered by rapidly changing membership, and appreciates the importance of having consistent school policy to allow educational and organizational initiatives a chance to work, it believes that extending the present term would have the overriding disadvantage of discouraging candidates for board office.

[Authority: DA 5/76-CR (Competency), DA 11/98-SR, DA 11/03-ER(A)]

#### **File Code 9112 [In Part]:**

##### Uniformity in School Elections

A. The NJSBA believes that a uniform statewide system of school elections run by county election officials standardizes the election process, avoids confusion, and encourages voter

turnout. A collaborative relationship should exist between election officials and school officials. Interested groups at the statewide and county levels, including the New Jersey Association of Election Officials, should work collaboratively to promote procedures that foster the cost-efficiency of school elections and encourage voter turnout. [Authority: DA 5/01 CR - Committee on School Elections, 11/98-SR, DA 5/13-SR]

B. The NJSBA believes that election costs should be billed to school districts according to a standardized format that is uniform throughout the state, itemized in a clear, detailed manner, and designed to permit any school district to compare itemized costs per voter with any other school district in the state, with the goal of developing a statewide model for permissible charges. [Authority: DA 5/01 CR - Committee on School Elections, 11/98-SR, DA 5/03-SR, DA 5/08-SR, DA 5/13-SR, DA 5/18-SR]

### **File Code 9113:**

#### Filling Board Vacancies

A. The NJSBA believes that vacancies should be filled by special elections only in the case of tie votes or the failure to elect due to improper election procedures;

B. The NJSBA believes that executive county superintendents should not be authorized to fill vacancies, except where the number of vacancies negates a quorum or the board fails to act within 65 days;

C. The NJSBA believes that local boards should have the authority to fill vacancies occurring for any other reason. Vacancies filled by either the executive county superintendent or the board would be on an interim basis only until the next annual school election.

D. The NJSBA believes that school boards should conduct public interviews of candidates for vacancies on board duties . [Authority: DA 12/80-8, BD 4/93, DA 11/98-SR, DA 11/03-SR, DA 5/08-SR, DA 5/18-SR]

E. The NJSBA believes that a vacancy in membership of a board of education of a limited purpose regional school district should be filled by majority vote of the board of education of the constituent district represented by the former board member. Where the constituent district has no board of education of its own, the consolidated district from which the students originate shall be authorized to fill the seat with a qualified member from the constituent community. [Authority: DA 6/20-2]

### **DISCUSSION**

The Lodi Board of Education, in the interest of conducting fair and consistent school board member elections, seeks the aforementioned language to be added to NJSBA's *Manual of Positions and Policies in Education*.

NJSBA's *Manual of Positions and Policies in Education* currently does not address Lodi's specific area of concern. However, the *Manual* does contain a number of policies [listed above], which promote the integrity of the school board election process and are consistent with the proposed language.

The proposed policy language is also consistent with statute at N.J.S.A. 18A:12-3, which states:

Each member of a board of education shall, before entering upon the duties of his office, take and subscribe:

(1) An oath that he possesses the qualifications of membership prescribed by law, including a specific declaration that he is not disqualified as a voter pursuant to R.S.19:4-1 and a specific declaration that he is not disqualified due to conviction of a crime or offense listed in N.J.S. 18A:12-1, and that he will faithfully discharge the duties of this office, and also

(2) The oath prescribed by R.S.41:1-3.”

Board members, upon taking their oath of office swear or affirm that they will discharge their duties for the term for which they were elected.

Additionally, pursuant to N.J.S.A. 19:60-6:

Accompanying the nominating petition and to be filed therewith, there shall be a certificate signed by the person endorsed in the petition stating that:

**a.** The person is qualified to be elected to the office for which the person is nominated, including a specific affirmation that the person is not disqualified as a voter pursuant to R.S.19:4-1 and that the person has not been convicted of a disqualifying crime pursuant to N.J.S. 18A:12-1;

**b.** The person consents to stand as a candidate for election; and

**c.** If elected, the person agrees to accept and qualify into that office.

These statutory provisions combined with the well settled law coming out of Kueken v. Guzman, 1990 S.L.D. 527 support the proposition that seated board members with more than a year remaining in their current term should resign that position if they wish to run for another seat seeking another three-year term. The intent of the holding in this case was to insure the integrity of the board election process and that the “electorate would not be deprived of a real choice, having been made aware, before it votes, of the composition of the board.” Additionally, the Commissioner was concerned that “to allow such activity would also frustrate the statutory scheme whereby one-third of the board stands for election each year.”

In sum, a board member agrees to accept and to qualify into that office for which he or she is elected. To not see that obligation through in order to seek a different seat and term activates the vacancy filling procedures, thus denying voters a full and fair election process.

**STATEMENT OF REASONS**

1. Current NJSBA policies recognize the need uniformity, integrity and fairness in the school member election process
2. Case law and statute support the language proposed by the Lodi Board of Education.
3. The language proposed by the Lodi Board of Education supports the uniformity, integrity and fairness of the electorate process and ensures that voters are not disenfranchised by board members seeking different seats thus requiring the filling of vacancies outside of the election process.

**RECOMMENDATION**

The Resolutions Subcommittee recommends approval of this resolution with the following resolved language which would create **new** policy language to be included in NJSBA’s *Manual of Positions and Policies on Education*:

**The NJSBA believes** that a board member with a term of office extending beyond the next election should resign the seat currently held, before submitting a nominating petition to become a candidate for a board seat different than the seat currently held by the member.

NEW JERSEY SCHOOL BOARDS ASSOCIATION

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SEMIANNUAL DELEGATE ASSEMBLY  
November 21, 2020

**The following resolution was received from the  
Lodi Board of Education (Bergen):**

WHEREAS, In the Commissioner of Education Decision of Kueken v. Guzman, 1990 S.L.D. 527, the Commissioner of Education determined that a Board trustee with time remaining on the trustee's term of office must resign the seat currently held to submit a nominating petition to stand as a candidate for a new three-year term; and

WHEREAS, The Lodi Board of Education requests the issuance of a policy statement supportive of the Commissioner of Education Decision issued in Kueken v. Guzman, 1990 S.L.D. 527; and

WHEREAS, The Delegate Assembly is the official policymaking body of the New Jersey School Boards Association; and

WHEREAS, Education related policies resulting from prior Delegate Assembly and Board of Directors' actions are codified in the NJSBA Manual of Positions and Policies on Education; and now, therefore, be it

RESOLVED, That the Lodi Board of Education proposes the following new policy language for adoption by the Delegate Assembly and inclusion in the NJSBA Manual of Positions and Policies on Education as read;

**The NJSBA supports** the requirement that a board trustee with a term of office extending beyond the next election must resign the seat currently held by the trustee before submitting a nominating petition to stand as a candidate for a new seat with a longer term of office.

RESOLVED, That this resolution be placed on the agenda for consideration at the November 21, 2020 Delegate Assembly.

Adopted at a regular meeting of the  
Lodi Board of Education  
on September 16, 2020

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James Sekelsky  
Board Secretary