

BOARD OF EDUCATION OF THE :
WESTWOOD REGIONAL SCHOOL :
DISTRICT, BERGEN COUNTY, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
RUSSELL MILLER, : DECISION
RESPONDENT. :

SYNOPSIS

The petitioning Board sought a declaratory ruling that respondent, Russell Miller, is ineligible to serve as a member of the Board due to a conflict of interest prohibited by *N.J.S.A. 18A:12-2*. Respondent, who was elected to the Westwood Board of Education in November 2012, is either an owner or employee of a company – Westwood Truck Center – that has provided vehicle maintenance services to the Board since at least 2004. Both parties argued that the dispositive issue in this matter is whether the respondent owns Westwood Truck Center.

The ALJ found that: *N.J.S.A. 18A:12-2* governs this dispute, as the New Jersey Supreme Court has held that *N.J.S.A. 18A:12-2* imposes ongoing qualifications for membership on a board of education, and the provisions of the subsequently-enacted School Ethics Act do not supersede *N.J.S.A. 18A:12-2*; regardless of whether respondent is an owner or employee of Westwood Truck Center, an impermissible conflict of interest existed under the regulations; however, the disqualifying conflict of interest was cured, and thereby mooted, when the contract with Westwood Truck Center terminated on June 30, 2013; and after that date, no conflict of interest existed. Accordingly, because the contract has been terminated, the ALJ concluded that the respondent is not required to forfeit his seat on the Board.

The Commissioner concurred with the ALJ's findings and conclusion, and adopted the Initial Decision as the final decision in this matter.

<p>This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

OAL DKT. NO. EDU 6392-13
AGENCY DKT. NO. 57-3/13

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon such review, the Commissioner concurs with the Administrative Law Judge (ALJ) that the respondent, Russell Miller, had an impermissible and disqualifying conflict of interest pursuant to *N.J.S.A. 18A:12-2* when he was sworn in as a member of the Westwood Regional Board of Education (Board). The Commissioner is also in accord with the ALJ's determination that the disqualifying conflict of interest was cured, and thereby mooted, once the Board's contract with Westwood Trucking Center terminated on June 30, 2013. Accordingly, the recommended decision of the ALJ is adopted for the reasons expressed therein.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 7, 2014

Date of Mailing: April 8, 2014

* This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).