

123-17 (OAL Decision: Not yet available online)

BOARD OF EDUCATION OF THE :
TOWNSHIP OF WAYNE, :
PASSAIC COUNTY, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
CATHERINE KAZAN, : DECISION
RESPONDENT. :

SYNOPSIS

The petitioning Board of Education of the Wayne Township Public Schools (Board) sought to remove and disqualify the respondent as a member of the Board for alleged breaches of *N.J.S.A. 18A:12-2*, which – in pertinent part – provides that no member of a board of education shall be interested directly or indirectly in any contract with or claim against the board. The Board based its claim against respondent upon an alleged inconsistent interest involving Ms. Kazan’s ongoing support for a full day kindergarten program within petitioner’s school district after a proposal for funding the program was defeated in a public referendum. Specifically, respondent was among a group of citizens who petitioned the Superior Court to review and invalidate the election results, alleging that the outcome of the vote was tainted by illegal political activity at the polling places. The parties filed opposing motions for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue in this case, and the matter is ripe for summary decision; petitioner sought to disqualify and remove the respondent from the Board for holding an opinion on a public issue over which reasonable people could disagree, and for speaking in defense of her position while sitting in Board meetings; while the Board argued that words spoken and actions taken by the respondent violated *N.J.S.A. 18A:12-2* because of an alleged inconsistent interest, it has failed to support its argument with evidence that respondent was involved in any contract with or claim against the Board; respondent did not sue or file a complaint against the Board, but rather was among a group of citizens who sought a Superior Court review of the election process in the referendum, only the subject matter of which implicated Board interests. The ALJ concluded that the respondent has the right to remain on the Board on behalf of the citizens who voted for her, and for her platform in favor of full day kindergarten. Accordingly, the ALJ granted respondent’s motion for summary decision and denied the Board’s cross motion for summary decision.

The Commissioner concurred with the ALJ’s determination that respondent has no conflict of interest pursuant to *N.J.S.A. 18A:12-2* that precludes her from serving on the Board. Accordingly, the recommended decision of the Office of Administrative Law was adopted as the final decision for the reasons expressed therein. The petition was dismissed.

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.

April 28, 2017

OAL DKT. NO. EDU 10129-16

AGENCY DKT. NO. 167-6/16

BOARD OF EDUCATION OF THE :
TOWNSHIP OF WAYNE, :
PASSAIC COUNTY, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
CATHERINE KAZAN, : DECISION
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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, Catherine Kazan, does not have a conflict of interest pursuant to *N.J.S.A. 18A:12-2* that precludes her from serving on the Board. Accordingly, the recommended decision of the ALJ is adopted for the reasons expressed therein and the petition is hereby dismissed.¹

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 28, 2017

Date of Mailing: April 28, 2017

¹ There is currently a related matter pending before the School Ethics Commission that is being held in abeyance pursuant to *N.J.S.A. 18A:12-32*. This final decision is not dispositive of the school ethics complaint. The School Ethics Commission will determine how to proceed with the related school ethics matter.

² 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)*.