

New Jersey Commissioner of Education
Final Decision

Anthony W. Ingrassia,

Petitioner,

v.

Board of Education of the Borough of Watchung,
Somerset County,

Respondent.

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

Upon review, the Commissioner concurs with the Administrative Law Judge that, in filling a vacant position, the Watchung Board of Education complied with the requirements of *N.J.S.A. 18A:12-15(f)*, the Board's policy regarding vacancies, the notice to the public regarding the vacancy, and the Board's general duty to the public.

Accordingly, the Initial Decision is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹


COMMISSIONER OF EDUCATION

Date of Decision: May 19, 2025
Date of Mailing: May 19, 2025

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDU 08126-24

AGENCY DKT. NO. 36-2/24

ANTHONY W. INGRASSIA,

Petitioner,

v.

BOROUGH OF WATCHUNG

BOARD OF EDUCATION,

SOMERSET COUNTY,

Respondent.

Anthony W. Ingrassia, petitioner, pro se

Keri A. Wright, Esq., for respondent (Porzio Bromberg & Newman, attorneys)

Record Closed: February 7, 2025

Decided: April 9, 2025

BEFORE **WILLIAM T. COOPER III**, ALJ:

STATEMENT OF THE CASE

Petitioner, Anthony W. Ingrassia (petitioner), filed a petition for a declaratory ruling concerning the application of N.J.S.A. 18A:12-15(f) to the process employed by the

Borough of Watchung Board of Education (respondent or Board) to fill an unexpected Board vacancy.

The specific question presented by petitioner is whether a board of education must provide information regarding all candidates seeking to fill a vacancy on a school board, even if they have been determined ineligible for the position, to voting Board members pursuant to N.J.S.A. 18A:12-15(f).

Answer: No, a school board fulfills its statutory obligations when filling a vacancy so long as it complies with the language of the statute, the board's policy as written, and the board's general duties to the public.

PROCEDURAL HISTORY

The matter was transmitted to the Office of Administrative Law, where on June 10, 2024, it was filed as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

On October 10, 2024, the parties agreed that the material facts were not in dispute and the matter could be resolved through motion practice. On or about January 21, 2025, the parties submitted a joint stipulation of material facts (C-1). Legal memorandums from the parties were submitted and oral argument was heard on February 7, 2025.

FACTUAL DISCUSSION

Based upon the joint stipulation of facts and pleadings submitted by the parties, I **FIND** as **FACTS** the following:

The Watchung Borough Board of Education consists of nine elected members. The petitioner is an elected member of the Board. On January 11, 2024, a member of the Board resigned, leaving a vacancy to be filled pursuant to N.J.S.A. 18A:12-15(f). On January 19, the Board posted a notice on its website advising that "The Board of Education will review all qualifying applicants. Interviews of all qualified applicants will be conducted in public on February 22, 2024, beginning at 7:00 pm, with an appointment

expected that evening.” The notice also included a list of qualifications for New Jersey board of education membership and instructions for applying by submitting a letter to the Board’s secretary. C-1, Exhibit A.

The notice instructed applicants that “letters of application and resumes will be accepted through Friday, February 2, 2024,” at noon. On February 2, the administration notified the Board members via email that nine individuals applied for the vacancy. The administration advised that they had not accepted submissions via email, and that the two applicants who had emailed their submissions were offered a chance to hand-deliver their applications to the Board office. Neither of the two applicants did so. The administration thus notified the Board that seven applicants would be invited to an interview for the vacancy during the Board’s February 22, 2024, meeting.

On February 5, the petitioner requested the ability to review all qualifying applicants, including the two who submitted applications via email.

At the February 22 meeting, the Board reviewed the seven invited candidates’ applications prior to the commencement of the meeting. During the thirty-minute review period, the administration informed the Board that three applicants had withdrawn their applications, leaving four candidates to be interviewed. The candidates were provided with instructions and questions prior to the meeting and were given three minutes to respond to each question during the interviews in public session. The Board moved to executive session after conducting the interviews, and after just over an hour of closed session, returned and voted publicly to appoint the chosen candidate. All present members of the Board voted in the affirmative, apart from Ingrassia, who abstained from the vote.

The Board’s selected candidate withdrew her appointment prior to taking her seat on the Board. The Board president sought contact information from the Board for the three other candidates who were interviewed on February 22, and notified the Board once he had contacted them to confirm their continued interest in the vacancy. At the Board’s next regular meeting on March 18, the Board voted unanimously to appoint one of the three candidates, who served the remainder of the 2024 term as a full voting member.

LEGAL ANALYSIS AND CONCLUSIONS

Summary Decision

The petitioner and the Board each seek summary decision. Under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, “[a] party may move for summary decision upon all or any of the substantive issues in a contested case.” N.J.A.C. 1:1-12.5(a). Such motion “shall be served with briefs and with or without supporting affidavits” and “[t]he decision sought may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.” N.J.A.C. 1:1-12.5(b). When the motion “is made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.” Ibid.

The standard governing agency determinations under N.J.A.C. 1:1-12.5 is “substantially the same as that governing a motion under Rule 4:46-2 for summary judgment in civil litigation.” L.A. v. Bd. of Educ. of Trenton, 221 N.J. 192, 203 (2015) (citing Contini v. Bd. of Educ. of Newark, 286 N.J. Super. 106, 121–22 (App. Div. 1995) (citations omitted), certif. denied, 145 N.J. 372 (1996)). “In other words, a court must ascertain ‘whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party in consideration of the applicable evidentiary standard, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party.’” Id. at 204 (quoting Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995)); see also Contini, 286 N.J. Super. at 121–22.

Here, the facts are undisputed by petitioner and respondent. It is the conclusion to be drawn from these facts that is the issue to be determined here, i.e., whether a board of education must provide information regarding all candidates seeking to fill a vacancy on a school board, even if they have been determined ineligible for the position, to voting board members pursuant to N.J.S.A. 18A:12-15(f).

Therefore, I **CONCLUDE** that the matter is ripe for summary decision.

Arguments

The petitioner claims that he is entitled to summary decision in his favor because the methodology utilized by respondent to fill the vacancy was deficient, as the respondent did not provide sufficient information separately to each Board member so that an informed decision could be made. He argues that restricting each member to a review of the applicants' information for thirty minutes prior to the meeting was unreasonable. Finally, he argues that restricting members' access to information to four of the nine applications was also unreasonable.

Respondent argues that it is entitled to summary decision in its favor because the process employed to fill the vacancy followed N.J.S.A. 18A:12-15 and the Board's bylaws, and the meeting wherein the vote was taken was in compliance with the Open Public Meetings Act.

N.J.S.A. 18A:12-15

The controlling statute here is N.J.S.A. 18A:12-15, which provides:

Vacancies in the membership of the board shall be filled as follows:

- a. By the county superintendent, if the vacancy is caused by the absence of candidates for election to the school board or by the removal of a member because of lack of qualifications, or is not filled within 65 days following its occurrence;
- b. By the county superintendent, to a number sufficient to make up a quorum of the board if, by reason of vacancies, a quorum is lacking;
- c. By special election, if in the annual school election two or more candidates qualified by law for membership on the school board receive an equal number of votes. Such special election shall be held

only upon recount and certification by the county board of elections of such election result, shall be restricted to such candidates, shall be held within 60 days of the annual school election, and shall be conducted in accordance with procedures for annual and special school elections set forth in Title 19 of the Revised Statutes. The vacancy shall be filled by the county superintendent if in such special election two or more candidates qualified by law for membership on the school board receive an equal number of votes;

d. By special election if there is a failure to elect a member at the annual school election due to improper election procedures. Such special election shall be restricted to those persons who were candidates at such annual school election, shall be held within 60 days of such annual school election, and shall be conducted in accordance with the procedures for annual and special school elections set forth in Title 19 of the Revised Statutes;

e. By the commissioner if there is a failure to elect a member at the annual school election due to improper campaign practices; or

f. By a majority vote of the remaining members of the board after the vacancy occurs in all other cases.

Each member so appointed shall serve until the organizational meeting following the next annual election unless the member is appointed to fill a vacancy occurring within the 60 days immediately preceding such election if the annual election is held in April, or occurring after the third Monday in July if the election is held in November, to fill a term extending beyond such election, in which case the member shall serve until the organizational meeting following the second annual election next succeeding the occurrence of the vacancy, and any vacancy for the remainder of the term shall be filled at the annual election or the second annual election next succeeding the occurrence of the vacancy, as the case may be.

Unless the vacancy occurs under one of the enumerated circumstances set forth in N.J.S.A. 18A:12-15(a)–(e), a vacancy shall be filled “by a majority vote of the remaining members of the board.” N.J.S.A. 18A:12-15(f). “What controls the manner in which a vacant Board seat is filled are N.J.S.A. 18A:12-15” and the school board’s written policy.

Amerman et al. v. Bd. of Educ. of the Ramapo Indian Hills Reg'l High Sch. Dist., Bergen Cnty., EDU 00610-23, Initial Decision (Aug. 28, 2023), <https://njlaw.rutgers.edu/collections/oal/>, adopted, Comm'r (Oct. 11, 2023), <https://www.nj.gov/education/legal/>. To interpret the text of N.J.S.A. 18A:12-15, both administrative law judges and the Commissioner defer to the plain language of the statute, as “the Legislature’s intent is the paramount goal when interpreting a statute and, generally, the best indicator of that intent is the statutory language.” Amerman, Comm'r Decision at 2–3 (quoting Diprospero v. Penn, 183 N.J. 477, 492 (2005)), <https://www.nj.gov/education/legal/>.

There is no statute, regulation, or case law dictating the methodology by which boards of education must accept and review applications from candidates seeking to fill board vacancies.

Outside organizations have, however, emphasized the importance of a school board’s duties to the public. While not binding or precedential, a past guidance document from the New Jersey School Boards Association (NJSBA) is instructive. The guidance document noted that “[p]rocedures [for filling a vacancy under N.J.S.A. 18A:12-15] are established by board policy.” N.J. Sch. Bds. Assn., “Board Governance—Legal Issues—2014,” at 7, [njsba.org/wp-content/uploads/2016/02/board-governance-outline.pdf](https://www.njsba.org/wp-content/uploads/2016/02/board-governance-outline.pdf) (last visited April 3, 2025). The document recommends that any such policy should consider advertisement, solicitation of resumes, interviews, deliberations, and Open Public Meeting Act issues. In more updated guidance, the NJSBA recommends the best practices to school boards when filling a vacancy. The NJSBA recommends using open-ended questions when interviewing candidates, as “[t]he more the candidate reveals, the easier it will be for the board to determine if that candidate is a good fit.” Kathleen Helewa, “Best Practices for Filling Board Vacancies,” N.J. Sch. Bds. Assn., <https://www.njsba.org/best-practices-for-filling-board-vacancies/> (last visited April 3, 2025).

The NJSBA also emphasizes that interviews should be “fair and consistent: the same questions should be asked of every candidate.” Ibid. During deliberations, a board should offer an opportunity for discussion after the motion is made to appoint a candidate,

though discussion is rare, “as board members would have discussed the candidates in closed session.” N.J. Sch. Bds. Assn., “Board President’s Corner: *How Do You Fill a Vacancy?*” School Board Notes (Dec. 12, 2023), <https://www.njsba.org/school-board-notes/board-presidents-corner-how-do-you-fill-a-vacancy/> (last visited April 3, 2025). If the board chooses not to appoint an individual from the pool of candidates, “the board should inform the public about what steps it agreed on in closed session to further its efforts to fill the vacancy.” Ibid. The NJSBA emphasizes that “[i]t is vital that boards review their process and district bylaws with their board attorney to ensure that relevant laws and regulations are followed.” Ibid.

Ultimately, school boards must “hold the respect and confidence of the people” and “ensure and preserve public confidence” in their conduct. N.J.S.A. 18A:12-22. The Legislature appears to have intentionally constructed the relevant statutes to have this effect. Written board policy furthers this intention by establishing the procedure through which a school board complies with its obligation to the public. Guidance from both the Commission as well as the NJSBA further indicates that a board’s primary requirement is to comply with both statute and policy. The NJSBA suggests that it may be prudent to obtain as much information as possible from candidates seeking to fill a vacancy, but that the interview process, rather than the written application process, is the best means to do so prior to the board’s closed deliberations.

Here, the Board’s policy states that

[t]he Board will give public notice of the vacancy and invite any qualified person to submit a written request for consideration of his/her candidacy for the vacancy. The Board may also require candidates to submit a resume with their written request. In considering candidates who have expressed an interest in a vacancy, the Board of Education may interview candidates in public or executive session. The Board must vote to appoint a candidate for a vacancy in public session and there shall be no decisions made in executive session. In the event interviews are conducted in executive session, Board members, in the public session nomination and voting process, shall express their opinion in support of their vote so the public can witness any deliberations, policy formulation, and the decision-making process of the Board.

[C-1, Exhibit B, at 2.]

The Board does not appear to have violated its policy in filling the vacancy at issue. The Board gave public notice of the vacancy using the posting on its website, which specified the delivery address and deadline for letters of application and resumes. Neither the policy nor the notice made any reference to accepting applications for the vacancy via email, and the noon deadline was communicated in the notice. It does not appear that the Board violated either the statute, which does not specify a procedure for filling a vacancy under subsection (f), its written policy, or the expectations of any applicants by refusing to consider the two applicants who applied via email. Thus, the Board likely did not err in refusing to provide those applications to Ingrassia or any other Board member.

Further, under the circumstances, the Board appears to have complied with its duty to serve the public. The Board's policy notes the importance of public disclosure of "deliberations, policy formulation, and the decision-making process." The thirty-minute preliminary opportunity to review the candidates' resumes prior to the meeting appears less important to the process than the candidate interviews. The NJSBA provides guidance about the interview process conducted in public session. The Board had the opportunity to comprehensively understand the eligible candidates during the interview process. After the interviews, the Board deliberated in executive session for over an hour, using the information provided to the Board members during the interviews—the most important part of the vacancy-filling process. Thus, it appears that the Board acted appropriately, using the information available to both the Board and the public, in filling the vacancy.

Applying the law to the credible facts, I **CONCLUDE** that the Board did not err in refusing to accept the applications submitted via email, in refusing to provide those applications to the petitioner or other Board members, or in reviewing the applications for only thirty minutes prior to the candidate interviews. I further **CONCLUDE** that the Board complied with the statutory requirements of N.J.S.A. 18A:12-15(f), its written policy

regarding vacancies, the notice provided to the public, and its duty to the public as a whole.

ORDER

It is hereby **ORDERED** that the respondent's motion for summary decision is **GRANTED** and the petitioner's cross-motion for summary decision is **DENIED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Acting Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500. A copy of any exceptions must be sent to the judge and to the other parties.

April 9, 2025 _____

DATE


WILLIAM T. COOPER III, ALJ

Date Received at Agency: _____

Date E-Mailed to Parties: _____

APPENDIX

Exhibits

For the Court:

C-1 Joint Stipulation of Facts, with attached exhibits

For petitioner:

None

For respondent:

None