

VOTING METHOD

Official actions may be taken only at a regular monthly or specially called meeting at which a quorum is present. All motions shall require for adoption a majority vote of those present and voting (minimally, a majority of the quorum), except as provided by code or statute.

A vote can be conducted by voice, show of hands or roll call, provided that the vote of each member is recorded, except where a recorded roll call majority is required by code or statute. Proxy voting is prohibited. Any member may request that the board be polled.

Abstentions

A member may abstain from voting. An abstention shall be so recorded and shall not be counted as either an affirmative or a negative vote. Abstentions are to be so recorded, regardless of whether a person speaks for or against a motion prior to stating his/her wish to abstain. The silence of a member on any vote shall be recorded as an abstention.

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Adopted: 11/17/1999; 11/17/2004; 05/09/2012

Legal References: Use legal reference sheet.

Key Words

Voting Method, Abstentions

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Legal References

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Other Reasons:

It is advisable to have a bylaw stating the number of votes required to transact ordinary business and a definition of abstention.

Case law says a board cannot require a supermajority except as provided by statute.

If a board does not develop policy (a bylaw) on treatment of abstentions, the commissioner or the courts may do so.

Recommendation:

A bylaw stating number of votes required to transact ordinary business and addressing how abstentions are to be counted.

Consult your board attorney if the board has concerns about voting rights in a sending-receiving relationship.

Legal References: N.J.S.A. 18A:38-8.1 Representation of board of education of sending district; matters covered

Aurentz v. Little Egg Harbor Township Planning Board, 171 N.J. Super. (Law Div. 1979)

King v. Asbury Park Board of Education, 1939-49 S.L.D. 20

Matawan Teachers' Assn. v. Board of Education, 223 N.J. Super. 504(App. Div. 1988)

Lincoln Park Bd. of Ed. v. Boonton Bd. of Ed., 97 N.J.A.R. 2d (EDU) (May 30)

Little Ferry Bd. of Ed. v. Ridgefield Park Bd. of Ed., 97 N.J.A.R. 2d (EDU) (July 24)

Green Twp. Bd. of Ed. v. Newton Bd. of Ed., 97 N.J.A.R. 2d (EDU) (August 5)

Possible

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| <u>Cross References:</u> | *1120 | Board of education meetings |
| | *3570 | District records and reports |
| | *9121 | Election and duties of president |
| | *9271 | Code of ethics |
| | *9322 | Public and executive sessions |
| | *9323/9324 | Agenda preparation/advance delivery of meeting material |
| | *9326 | Minutes |

*Indicates policy is included in the Critical Policy Reference Manual.

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BOARD VOTING REQUIREMENTS

The following actions require a recorded roll call vote and must pass by an affirmative vote of a majority of the full membership of the board. "Full membership" means the number of board members when all the members' seats are filled. A "majority of the full membership" means a majority of that number. N.J.S.A. 18A:1-1.

1. Directing the Board Secretary to make deductions for United States government bonds from salaries of participating employees (N.J.S.A. 18A:16-8).
2. Appointing and fixing the salary and term of a Board Secretary (N.J.S.A. 18A:17-5).
3. Appointing and fixing the salary and term of an Assistant or Acting Board Secretary (N.J.S.A. 18A:17-13).
4. Appointing and fixing the term of a Superintendent of Schools (N.J.S.A. 18A:17-15).
5. Appointing or removing an Assistant Superintendent of Schools (N.J.S.A. 18A:17-16).
6. Appointing and fixing the term of an Administrative Principal (N.J.S.A. 18A:17-20.5).
7. Appointing and fixing the term of a shared Superintendent or a shared School Business Administrator (N.J.S.A. 18A:17-24.3). (Please note that this particular statute only requires a "majority of the membership.")
8. Appointing or removing and fixing the salary of a Business Manager in a Type I school district (N.J.S.A. 18A:17-25).
9. Appointing an executive superintendent in districts in cities of the first class with a population over 325,000 (N.J.S.A. 18A:17A-1).
10. Disposing of lands owned by the board, or rights or interests therein (N.J.S.A. 18A:20-5).
11. Exchanging lands owned by the board (N.J.S.A. 18A:20-8).
12. Adopting a budget in Type II districts having a Board of School Estimate (N.J.S.A. 18A:22-26).
13. Fixing and determining the amount of money to be voted upon by the voters of the district at or after the public hearing on the school budget for Type II districts without a Board of School Estimate (N.J.S.A. 18A:22-32).
14. Adopting the question(s) to be submitted to the voters concerning any capital project(s) to be paid for from the proceeds of an issue of bonds in Type II districts without a Board of School Estimate (N.J.S.A. 18A:22-39).

15. Adopting a proposal for the issuance of school bonds by Type II districts having a Board of School Estimate (N.J.S.A. 18A:24-10b).
16. Transferring a teaching staff member (N.J.S.A. 18A:25-1).
17. Restoring or removing an Assistant Superintendent, principal or teacher, following suspension by the Superintendent of Schools (N.J.S.A. 18A:25-6). (Please note that this particular statute only requires a “majority of the membership.”)
18. Appointing a teaching staff member (N.J.S.A. 18A:27-1).
19. Appointing, transferring, removing or renewing the employment contract of a certificated or non-certificated officer or employee (N.J.S.A. 18A:27-4.1).
20. Withholding, for inefficiency or other good cause, a prescribed employment or adjustment increment (N.J.S.A. 18A:29-14).
21. Adopting or altering a course of study (N.J.S.A. 18A:33-1).
22. Selecting textbooks (N.J.S.A. 18A:34-1).
23. Applying for membership in an already established county educational audiovisual aids center (N.J.S.A. 18A:51-11)
24. Applying to the executive county superintendent to investigate the advisability of withdrawing from a regional district (N.J.A.C. 6A:32-11.1). (Note that in this case, the roll call majority vote is required by administrative code provision. This is not a statutory requirement.)
25. Submitting, for executive county superintendent review, the content of separate questions to be submitted to the voters that propose programs in addition to the core curriculum context standards that may be in excess of its adjusted spending growth limitation (N.J.A.C. 6A:23-8.5(b)). (Note that in this case, the roll call majority vote is required by administrative code provision. This is not a statutory requirement.)

The following actions require a recorded roll call vote and must pass by an affirmative vote of two-thirds of the full membership of the board.

1. Determining the necessity to sell bonds to raise money for a capital project by a Type II district with a Board of School Estimate (N.J.S.A. 18A:22-27).
2. Permitting the private sale of certain bonds if no legally acceptable bid is received by a Type II district (N.J.S.A. 18A:24-45(c)).

The following actions require an affirmative vote of the majority of the full membership of the board. They do not require a roll call vote. Some of the statutory votes require “all of the members of the board” or a “majority of the board of education.” NJSBA believes that all of these actions require a majority of the full membership of the board. Check with your board attorney for details.

1. Determining the sufficiency of charges to dismiss or reduce the salary of a tenured employee (N.J.S.A. 18A:6-11).
2. Filling of vacancies on elected boards of education (“majority vote of the remaining members”) (N.J.S.A. 18A:12-15).

3. Removing from office a president or vice president of a board for failure to perform a duty imposed upon him by law (N.J.S.A. 18A:15-2). (“majority vote of all of the members”)
4. Appointing, fixing the salary and defining the duties of a school business administrator or appointing a shared business administrator between two or more districts. (N.J.S.A. 18A:17-14.1). (“majority vote of all of the members”)
5. Disqualifying a bidder who would otherwise be determined to be the lowest responsible bidder due to prior negative experience (N.J.S.A. 18A:18A-4). (“majority of the board of education”)
6. Authorizing of purchase of securities (N.J.S.A. 18A:20-37). (“majority vote of all of its members”)
7. Authorizing of sale of securities (N.J.S.A. 18A:20-39). (“majority vote of all of its members”)
8. Adopting a proposal for the issuance of school bonds in Type II districts without a Board of School Estimate (including regional districts) (N.J.S.A. 18A:24-10c).
9. Admitting pupils, who have never attended public or private school, after October 1 following the opening of school for the full term (N.J.S.A. 18A:38-6). (“majority vote of all of the members”)
10. Deciding to establish, with other school districts of the county, a county educational audio-visual aids center (N.J.S.A. 18A: 51-1).
11. Employee travel, with prior CSA approval (“majority of full voting membership”) (N.J.S.A. 18A:11-12(f))
12. Board Member travel (“majority of full voting membership”) (N.J.S.A. 18A:11-12(g))
13. In a school district with a board of school estimate, approval of additional tax levy (N.J.S.A. 18A:7F-39)(“majority of those board members who are present”)

The following actions require an affirmative vote of two-thirds of the full membership of the board. They do not require a roll call vote.

1. Determination of member district's share of educational services commission expenses (two-thirds of representative assembly) (N.J.S.A. 18A:6-62).
2. Adoption of new corporate name for school district composed of two or more municipalities (N.J.S.A. 18A:8-17.1).
3. Authorization to negotiate, award or enter into a contract or agreement after the board has solicited and received at least three quotations on materials, supplies or equipment for which a State contract has been issued, and the lowest responsible quotation is at least ten percent (10%) less than the cost charged under the State contract (N.J.S.A. 18A:18A-5(e)).
4. Adopting a refunding bond ordinance by a Type II school district (N.J.S.A. 18A:24-61.4).
5. Selling or exchanging refunding bonds (N.J.S.A. 18A:24-61.9).
6. Endorsing approval of a lease purchase and authorizing the Superintendent and/or board secretary to advertise and solicit proposals in connection with a lease purchase, and to request state approval of a lease purchase of five years or less (N.J.A.C. 6A:26-10.3(h)). (Note that in this case, the two-thirds

majority vote is required by administrative code provision. This is not a statutory requirement.)

7. Endorsing approval of a lease of facilities in excess of five years and authorizing the board of education to request approval of an amendment to its long range facilities plan to reflect the leased facility (N.J.A.C. 6A:26-10.11 (c)). (Note that in this case, the two-thirds majority vote is required by administrative code provision. This is not a statutory requirement.)

The following actions require an affirmative vote of two thirds of the “authorized membership” of the school board. “Authorized membership of the school board” means the full membership of the district board of education as established pursuant to N.J.S.A. 18A:12.

1. Transferring amounts among line items and program categories (N.J.S.A. 18A:22-8.1, N.J.A.C. 6A:10A 8.2 (e), N.J.A.C. 6A:23-2.11(f)).
2. Petitioning the Commissioner for authority to make a transfer of surplus, unbudgeted or under budgeted revenue amounts to line items and program categories prior to April 1 due to an emergent circumstance (N.J.S.A. 18A:22-8.1, N.J.A.C. 6A:10A-8.2 (b), N.J.A.C. 6A:23-2.11(c)).
3. Petitioning the Commissioner for authority to make a transfer of surplus, unbudgeted or under budgeted revenue amounts to line items and program categories between April 1 and June 30 in order to achieve the thoroughness standards for the current year (N.J.S.A. 18A:22-8.1, N.J.A.C. 6A:10A-8.2 (a), N.J.A.C. 6A:23-2.11(b)). Note that the Abbott code speaks to achieving the efficiency and effectiveness standards, not the thoroughness standards.
4. Authorization to negotiate and award a contract or agreement after twice advertising for bids pursuant to N.J.S.A. 18A:18A-4, with subsequent failure to receive any bids (N.J.S.A. 18A:18A-5(c)).
5. Authorization to negotiate and award a contract or agreement after twice advertising for bids and having rejected those bids for appropriate reasons (N.J.S.A. 18A:18A-5(c)).
6. Authorization to negotiate and award a contract or agreement after twice advertising for bids and having once failed to receive bids and having once rejected bids received for appropriate reasons (N.J.S.A. 18A:18A-5 (c)).

The following action requires an affirmative vote of three-quarters of the members present. It does not require a roll call vote.

1. Calling an emergency meeting of the board without providing adequate prior notice (N.J.S.A. 10:4-9).

When in doubt or where a question exists concerning the formal requirements of a vote, the board should take action by roll call vote and should consult its board attorney