



## School Board Members Properly Petitioned Court to Oust Board Member from Office

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By Jackie Wernz and Brian Crowley

A recent Illinois Appellate Court case reaffirms the requirements that school board members not hold conflicting positions during their service on the board, and highlights the method by which board members may be removed from office when they have a conflict of position. In *People v. Niekamp*, the Appellate Court held that a school board member was properly removed from his office as a school board member by a trial court. The board member was serving on the county board at the time he took the oath of office for his school board position. The board member had a conflict of position under Section 1 of Public Officer Prohibited Activities Act.

The court held that the process by which the school board member was removed from office was proper, even though the petition to the court was brought by fellow board members, not the Illinois Attorney General or State's Attorney. Although the type of proceeding at issue—a *quo warranto* proceeding—may be brought by those public officials it may also be brought by individual citizens who have a sufficient interest in the outcome of the proceedings. Because the vote of the one board member could be dispositive on issues that came before the board, the other board members had a sufficient interest to challenge the board member's conflict.

This was true even though the board member had served in both positions for many years without any objection from the other board members. Each time he was subsequently reelected, the issue of whether there was a conflict of position became ripe for judicial review, and there was no evidence of any unjust delay by the board members in challenging the conflict.

### More Information

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