

April 21, 2009

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion A03-09

The School Ethics Commission is in receipt of your request for an advisory opinion wherein you have asked whether you would violate the School Ethics Act, (Act) N.J.S.A. 18A:12-21 *et seq.*, if you were to serve as a paid sports official at athletic meets in the district in which you serve.

You have set forth that you are certified by the New Jersey State Interscholastic Athletic Association (NJSIAA) as an official for certain athletic events. You have further set forth that you are a member of the Southern Bay Shore Track/Field Chapter which is part of the NJSIAA organization. You have explained that your chapter utilizes an “assignor” who is responsible for assigning officials to officiate athletic events at local high schools and middle schools. The assignor in your chapter has requested that you officiate several boys/girls track meets at the district where you are serving as a board member. You have noted that all sports officials are assigned through an assignor and sports officials do not solicit assignments. You have set forth that you would receive compensation from the district for your officiating duties. You further set forth that such compensation has been negotiated by the league for school athletic directors for all area sports for both high schools and middle schools.

At its March 24, 2009 meeting, the Commission determined, pursuant to its authority in N.J.S.A. 18A:12-28(b), that you would not violate the Act if you were to serve as a paid sports official at athletic meets in your district.

Your inquiry turns on the application of N.J.S.A. 18A:12-24(c), which provides:

No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of

judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family;

To find whether you would violate N.J.S.A. 18A:12-24(c) by serving as a paid sports official at athletic meets in the district in which you serve, the Commission must first determine if you would have either a direct or an indirect financial involvement that might reasonably be expected to impair your objectivity or independence of judgment. Given that the rate of payment for sports officials is set by an outside entity and is not set by the school district, it would not be reasonable for the public to perceive that your objectivity or independence of judgment may be impaired due to a direct or indirect financial involvement with the district. The Commission also notes that you have no control over assignments since it is the assignor who determines where each sports official will work within the chapter.

The Commission must next determine whether you would have a personal involvement that is or creates some benefit to you or a member of your immediate family if you were to serve as a paid sports official at athletic meets in the district in which you serve. In *Advisory Opinion A16-00*, (December 1, 2000), the Commission found that the benefit set forth in N.J.S.A. 18A:12-24(c) need not be financial; otherwise the “personal involvement” provision would be redundant. The Commission also noted that “it considers an involvement to be personal whenever a school official has a relationship that the public may perceive as being predominant to the best interest of the district. Therefore, a benefit can be something of intrinsic value, but no monetary worth.” (Id., at page 2) An example of a benefit that is of intrinsic value, but not monetary worth, can be found in I/M/O Dino Pettinelli, C01-04 (July 27, 2004), where the Commission found that there was a benefit of intrinsic value in the personal satisfaction that a board member receives in ensuring that a sibling obtains employment.¹ In the facts set forth here, the Commission can find nothing of intrinsic value that you would receive if you were to serve as a sports official at an athletic meet in your district. Furthermore, the Commission finds that it would not be reasonable for the public to perceive that your service as a paid sports official at a district athletic event would be predominant to the best interests of the district. Accordingly, the Commission advises that you would not violate N.J.S.A. 18A:12-24(c), if you were to serve as a paid sports official at athletic meets in the district in which you serve as a board member.

¹ In Pettinelli, the Commission found that a Board member violated N.J.S.A. 18A:12-24(c) when he was present and participated in two executive sessions regarding the hiring of his brother.

We trust that this opinion answers your inquiry. Because the Commission believes that this opinion will be of interest to other board members, it will be publicly issued pursuant to N.J.A.C. 6A:28-5.2(e).

Sincerely yours,

Robert Bender, Acting Chairperson
School Ethics Commission

RB/JP/MET/advisory opinions/A03-09