



## State of New Jersey

DEPARTMENT OF EDUCATION

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### School Ethics Commission

February 27, 2024

#### For Public Release

Subject: Public Advisory Opinion – A03-24

The School Ethics Commission (Commission) received your request for an advisory opinion on your own behalf, as a member of the Board of Education (Board). The Commission's authority to issue advisory opinions is expressly limited to determining whether any prospective conduct or activity would constitute a violation of the School Ethics Act (Act). *N.J.S.A.* 18A:12-31. Pursuant to *N.J.S.A.* 18A:12-28(b), your request was preliminarily discussed by the Commission at its regularly scheduled meeting on January 23, 2024, and again at its special meeting on February 27, 2024.

You inform the Commission that you are currently a Board member serving until 2026, and you are interested in serving on the County Democratic Committee. More specifically, you state that you are interested in serving as an elected member of the County Board of Commissioners for a three-year term.

Based on the information provided in your request, you inquire whether you would violate the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.*, if you were to "run to be a member of [t]he [] County Board of Commissioners while [you are] seated as a [B]oard member."

As an initial matter, the Commission notes that its authority is limited to enforcing the provisions of the Act as it relates to an individual's service as a school official. In short, the Commission cannot opine on whether you may "run to be a member of [t]he [] County Board of Commissioners while [you are] seated as a [B]oard member" as that determination is beyond the jurisdiction of the Commission.

Notwithstanding the above, the dual office statute, *N.J.S.A.* 19:3-5.2, *may* prohibit you from serving as an elected member of both the Board and the County Board of Commissioners. Although the Commission lacks the authority to interpret a statute other than the Act, should an authoritative body give advice or make a determination that holding elected office on both, a Board of Education and on a County Board of Commissioners, simultaneously *is* violative of *N.J.S.A.* 19:3-5.2, and should you decide to serve on both, you would be in violation of your obligation under *N.J.S.A.* 18A:12-24.1(a), which requires Board members to "uphold and enforce all laws, rules and regulations of the State Board of Education."

In sum, the Commission cannot advise whether you are statutorily permitted to simultaneously hold both positions, Board member and member of the County Board of Commissioners, because its jurisdiction is limited to enforcing the provisions of the Act.

Finally, as a reminder, school officials must always be cognizant of their responsibility to protect the public trust, to honor their obligation to serve the interests of the public and the Board, and to periodically reevaluate the existence of potential conflicts of interest. In addition, the only way for a school official to truly safeguard against alleged violations of the Act is to avoid any conduct which could have the appearance, actual or perceived, of being in violation of the Act.

Sincerely,

Robert W. Bender, Chairperson  
School Ethics Commission