



## State of New Jersey

DEPARTMENT OF EDUCATION

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### SCHOOL ETHICS COMMISSION

April 30, 2024

#### For Public Release

Subject: Public Advisory Opinion – A06-24

The School Ethics Commission (Commission) received your request for an advisory opinion on behalf of your client, the Board of Education (Board). You verified that you copied the subject of the request, thus complying with *N.J.A.C. 6A:28-5.2(b)*. The Commission notes that the subject Board member did not submit a response to your request, and therefore, the Commission will issue its advice based solely on the information included in your request. 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. *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 Advisory Opinion Committee meeting on April 10, 2024, and again at its regularly scheduled meeting on April 30, 2024.

You inform the Commission that a District employee (Employee) (non-dependent child of the Board member) is employed by the Board in an unknown capacity. You state that on or about January 23, 2023, before the Board member was a Board member, Employee, "retained legal counsel and sent a litigation hold letter to members of the District's administration, the Board, and to [Board Counsel]," alleging that Board counsel "engaged in 'potentially tortious conduct' against [Employee]," and that this conduct ". . . may have been harassing, discriminatory, retaliatory, and may have created a hostile work environment." You further state Employee alleged that Board counsel "has continuously engaged in a petty, long-standing feud with [Employee] and his family; of concern now is that the fact he has attempted to manipulate [the Superintendent] into participating in [the] ongoing vendetta."

You further inform the Commission that the litigation hold letter from Employee's attorney also requested an investigation. You note the Board retained an outside law firm to conduct an investigation related to Employee's allegations, which ultimately determined that the allegations were unsubstantiated. You further note a complaint has not been filed to date.

Based on the information provided in your request, you inquire whether, the Board member would be in violation of the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.*, if the

Board member participated in discussions and/or votes on matters pertaining to the contract between the Board and Board counsel, due to his/her child's allegation that Board counsel has "engaged in a long-standing 'feud' and 'vendetta' against [Employee] and his/her family, which includes [the Board member]."

In its review of the specific facts and circumstances detailed in your request, the Commission notes that there appears to be an animus between Employee and his/her family, including the Board member, and Board counsel, and therefore, it is reasonable for members of the public to believe that the Board member, based on the child's allegation that Board counsel has "engaged in a long-standing 'feud' and 'vendetta' against [Employee] and his/her family, which includes [the Board member]," is unable, *at this time*, to maintain objectivity and independence of judgment related to Board counsel. Therefore, in order to avoid a violation of the Act and to preserve the public trust, the Commission advises that the Board member should recuse from any and all matters (including discussions and votes) related to Board counsel's employment.

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