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SCHOOL ETHICS COMMISSION

March 24, 2026

For Public Release

Subject: Public Advisory Opinion – A04-26

The School Ethics Commission (Commission) received your request for an advisory opinion on your own behalf, as a member of 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), the Commission preliminarily discussed your request at its Advisory Opinion Committee meetings on February 11, 2026, and March 11, 2026, and at its regular meetings on February 24, 2026, and March 24, 2026.

You inform the Commission that you are currently serving your third term on the Board, and your current term expires in December 2029. You state that you retired from teaching in July 2023, you were employed for "approximately forty years," and during your employment as a teacher you were a member of the New Jersey Education Association (NJEA) and the National Education Association (NEA). You further state that you "receive pension benefits from the Teachers' Pension and Annuity Fund (TPAF)," and you "also receive pension benefits from the Public Employees' Retirement System (PERS) attributable to [your] service as a part-time lecturer at [a] University."

You note that your "pension and health care coverage are administered and provided by the State of New Jersey." You further note you are "not a member of the New Jersey Retired Educators Association (NJREA) or of the NEA Retired Educators Association."

You further inform the Commission that although "the negotiations committee will not convene during the current year because the existing collective bargaining agreement is not under negotiation, the Board periodically appoints members to serve on the committee in anticipation of future negotiations." You provide that Board counsel advised that your "prior membership in the NJEA and NEA, together with [your] receipt of pension benefits, may preclude [your] participation on the Board's negotiations committee."

With the above in mind, you inquire whether your previous membership in the NJEA and the NEA, as well as your receipt of pension benefits from the TPAF and the PERS, would prohibit you from serving on the Board's negotiation committee.

As an initial matter, the Commission would like to clarify when it would be a conflict for a retired teacher, who was a member of a local union, to participate in matters related to the union and negotiations. First, in public *Advisory Opinion A26-15* (A26-15), the Commission advised that a newly elected board member, who had recently retired from the same school district where they currently served as a board member after teaching there for 28 years, and who also served as president of the local education association (LEA) during the last 13 years of employment, had to recuse from all matters and abstain from any votes involving the LEA for the duration of their initial term due to the "appearance of a conflict of interest for this Board member."

Next, in *Advisory Opinion A24-16* (A24-16), the Commission opined that a teacher who was employed in a different school district than where they served as a board member, who was a member of the local union, held several positions within the local union, who retired 15 years before serving on the board of education and who made "a one-time payment to become a lifelong member of the NJREA" did not have a conflict related to negotiations. In A24-16, the Commission considered the significant amount of time between the board member's "active, involved membership" in the NJEA and the present – 15 years – to be significant factors in its advice.

Based on its review of the specific facts and circumstances detailed in your request, the Commission notes that you recently retired in 2023, in the midst of serving your second three-year term on the Board. Unlike the board member in A24-16, your recent retirement is a significant factor here. Therefore, the Commission advises as in A26-15, that to avoid a violation of the Act, and to preserve the public trust, you should not be a member of the negotiation committee, for the duration of **one full term**, which is your present term (2026-2029). However, as you were employed in a different school than where you serve as a Board member, and as you were only a member of the local union and not an officer as the board member in A26-15, the Commission further advises that if the teachers' union negotiates their contract during your present term, after the memorandum of agreement, including salary guides and the total compensation package, has been attained, you may, absent another conflict, vote on the collective negotiations agreement.

The Commission also advises because you have indicated that you are not a member of the NJREA or of the NEA Retired Educators Association, the fact that you collect pensions benefits from the TPAF and the PERS will be no bar to your service on the negotiations committee. Therefore, after one full term expires, your receipt of pension benefits would not prohibit you from serving on the negotiations committee, as the pensions are paid through the State of New Jersey, not the local union.

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. 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