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SCHOOL ETHICS COMMISSION

March 24, 2026

For Public Release

Subject: Public Advisory Opinion – A05-26

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 your request, the Board member, thus complying with *N.J.A.C. 6A:28-5.2(b)*. The Commission notes that the Board member did not submit a response to your request, and therefore, the Commission will issue its advice based on the information included in your initial request, and in your supplemental response to the Commission's request for additional information. 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 regular meeting on February 24, 2026, at its Advisory Opinion Committee meeting on March 11, 2026, and again its regular meeting on March 24, 2026.

In your initial request, and in your supplemental response to the Commission's request for additional information, you inform the Commission that the Board member, "has been dating a [] teacher in the district, and they are now living together in a domestic partner-type relationship." More specifically, you state the relationship is not a "'domestic partnership' per se, since it does not involve a same-sex couple or individuals over the age of 62, but" the couple is "residing together, are in the process of purchasing a home together, and will be financially interdependent with respect to bank accounts, mortgage payments, and household expenses."

You indicate that you "are aware" of public advisory opinions, namely *Advisory Opinion A16-25* (A16-25) and *Advisory Opinion A05-23* (A05-23). You note A16-25 addressed "a romantic relationship between a board member and a school business administrator." You further note that A16-25 provides that "the business administrator was not an immediate family member or relative, at least not yet, but fell under the umbrella of 'others'" and advised that the subject board member should "also refrain from 'any discussions and votes related to the annual budget as well as any other matters related'" to the business administrator.

You further inform the Commission that the Board's committees consist of "Facilities [and] Finance, Personnel, Policy, and Curriculum [and] Instruction any of which the Board President may appoint the [B]oard member to if there is no conflict." You state the Commission advised in A05-23 that "board members may not sit on committees [that] touch on the employment of relatives working in that district." You further state that the "position of [teacher] was not specifically addressed in" A16-25 or A05-23.

With the above in mind, you inquire whether the relationship between the Board member and the teacher would present a conflict for the Board member related to any of the committees.

As an initial matter, the Commission notes that although, as you indicated, the "position of [teacher] was not specifically addressed in" A16-25 or A05-23, these public advisory opinions are still instructive. Both advisory opinions apply the same principles and conflicts explained in *Advisory Opinion A24-17* (A24-17). The Commission further notes that it is not the employment role within the school district that governs the potential conflict, but rather, the relationship between the Board member/school official and the district employee, which determines whether there would be any prohibitions and the nature of the prohibitions.

More specifically, in A16-25, the Commission advised that although the two school officials (board member and business administrator) were engaged, the business administrator, "at the present time," was not yet a member of the board member's immediate family or a relative, and therefore, "falls under the umbrella of 'others' as enumerated in *N.J.S.A.* 18A:12-24(b), which prohibits a school official from using or 'attempting to use his official position to secure unwarranted privileges, advantages, or employment for himself, member of his immediate family or *others*.'" Notably, although the subject school officials were engaged, the request did not indicate they were cohabitating or sharing monthly expenses at the time of the request.

In A05-23 the two subject board members (President and Vice President) had immediate family members (child and spouse) employed in the same school district, and therefore, their prohibitions extended to the committees that touched upon their immediate family members employment.

Turning to your request, and based upon the specific facts and circumstances presented in your initial request and the supplemental response to the Commission's request for additional information, you have indicated that the Board member and the teacher are "residing together, are in the process of purchasing a home together, and will be financially interdependent with respect to bank accounts, mortgage payments, and household expenses." Although this type of relationship does not meet the definition of "domestic partner" as defined in *N.J.S.A.* 26:8A-3 and *N.J.S.A.* 26:8A-4, and the teacher is still considered to be an "other," this request is distinguishable from A16-25 because the Board member and the teacher are "financially interdependent with respect to bank accounts, mortgage payments, and household expenses," and therefore, the Board member's relationship with an employee of the District has the potential to compromise the Board. Consequently, any matters related to the teacher's employment would impact/affect the Board member financially, as well. Therefore, the Commission advises that the Board member should not serve on any of the named committees while he/she remains in a relationship with the teacher and the Board member should abstain from any matters that touch upon the teacher's employment.

The Commission notes it cannot predict every scenario that would present a conflict for the Board member. Notably, in A16-25, one of the school officials who was in the relationship was the business administrator, whose responsibilities clearly include budget matters, and therefore, an obvious prohibition for the subject board member would include any matters related to finance and budget, among others that may not be so recognizable. It is unclear, based on your request, the specific matters that would come before the “Facilities [and] Finance, Personnel, Policy, and Curriculum [and] Instruction” committees and the Commission cannot possibly predict every possible scenario that would present a conflict, but it appears that each of those committees would touch upon the employment of the teacher. Therefore, it is incumbent on the Board member to “avoid conduct which is in violation of [the] public trust or which creates a justifiable impression among the public that such trust is being violated.” Accordingly, the Commission cautions the Board member must consider the possible appearance of impropriety in all of his/her actions. The Commission recognizes the limitations this may have on the Board member’s abilities to perform his/her duties as an elected school official; however, there are not any precautions adequate enough to protect the public trust and confidence except for the Board member not to be appointed to any of the aforementioned committees, in addition to his/her recusal from matters that may touch upon the employment of the teacher.

The Commission further advises that if, and when, the Board member and the teacher become married, the teacher would then become the Board member’s spouse, and therefore, fall within the definition of both “member of immediate family” and “relative.” At that time, if the Board member is still on the Board, and the teacher is still employed in the District, the Board member should continue not to be on any committees, as well as abstain from all matters, that touch upon his/her spouse’s employment. A24-17 would be instructive at that time.

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