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## SCHOOL ETHICS COMMISSION

March 24, 2026

### For Public Release

Subject: Public Advisory Opinion – A06-26

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), the Commission preliminarily discussed your request at its Advisory Opinion Committee meeting on March 11, 2026, and again at its regular meeting on March 24, 2026.

You inform the Commission that you were "elected to the [Board] to fill a one year vacancy beginning in January 2025 after a six year hiatus." You state that you "previously served on the Board, including some time as the President, for approximately 18 years." You further state you have been "re-elected for a two year term beginning in January 2026" and you were also "reappointed" to serve as the Board President.

You note that you are currently employed as a "full time teacher in a district several counties geographically removed from the district in which [you] serve" as a Board member. You further note that you will be retiring in June 2026 and you "currently do not plan on joining the New Jersey Retirees' Education Association."

You further inform the Commission that your spouse "has been a substitute staff member at the School District [(District)] for 18 years," and you were on the Board when your spouse began his/her employment as a substitute. You provide that the District "does not currently use an outside agency for the placement of substitutes. The District directly engages the substitute." You further provide the Superintendent recommends the list of substitutes to the Board for approval and the substitutes are not affiliated with any bargaining unit. You state that "the substitutes are assigned on a first reply basis to a notice of need for a vacancy as posted on

Frontline, an internet platform for personnel management. Substitutes report to and are managed by the Superintendent, who also serves as a Principal.”

Finally, you note that you are aware of public advisory opinions, namely *Advisory Opinion A05-25* (A05-25), *Advisory Opinion A05-23* (A05-23) and *Advisory Opinion A24-17* (A24-17). However, you state that in your “particular set of circumstances, the matter of substitutes is *de minimis* within the context of the full panoply of issues brought before the board and each of its committees.” You also state that the “hiring of substitutes is not one typically discussed in committee[,]” and “[t]he topic is almost completely within the discretion of the Superintendent.” You further state, “The relationship between appointment of all committees, including Human Resources, to the process of hiring and compensating a substitute is so tenuous and lacks such proximity to the function of the appointment of committees that is so highly regulated by Board policy that it would be objectively unreasonable to find a conflict of interest existed in violation of the statute.” Therefore, you “suggest that the blanket prohibition of service on committees by the President in an *ex officio* capacity is worthy of further consideration.”

Based on the information provided above, you make the following inquiries:

1. What is the scope of the limitation on a Board member’s participation in Board matters when the member’s spouse is employed in the District as a substitute?
2. What is the scope of the limitation of a Board President’s authority in the functions of that office when the President’s spouse is employed in the District as a substitute?
3. Does the retirement of the member and the cessation of active membership in the statewide teachers’ union (NJEA) abate the conflict created by such membership?
4. After you retire in June 2026, will the conflict related to your membership in a statewide teachers’ union dissolve upon your retirement?
5. Does membership in the New Jersey Retirees’ Education Association still constitute a conflict of interest? If you completely sever membership in the NJEA, does this end that conflict?

As an initial matter, you have indicated that you are employed as a “full time teacher in a district several counties geographically removed from the district in which you serve” as a Board member. Although you indicate you will be retiring in June 2026, you are not yet retired, and therefore, your employment as a teacher presents a conflict for you as indicated in A24-17. More specifically, A24-17 clearly states:

**Absent another conflict, a Board member** who is currently a member of **any statewide public teachers’ union**, but in **another school district**, **cannot** participate in any aspect of negotiations **until** the memorandum of agreement, including salary guides and the total compensation package, has been attained. Participation by the Board member in any aspects of negotiations prior to this time implicates N.J.S.A. 18A:12-24(b) and N.J.S.A. 18A:12-24(c), and possibly other subsections. After the memorandum of agreement, including salary guides and the total compensation package, has been attained, the Board member can, absent another conflict, vote on the collective negotiations agreement.

Moreover, as clearly advised in A05-23, your employment as a teacher would present a conflict for you related to the negotiations committee, and therefore, as the Board President, your “*ex officio*” membership should be in name only, as such you should not appoint any Board members to the negotiations committee, attend any negotiations committee meetings and/or you should not participate in any way in the negotiations committee.

Turning to your request, and based on the specific facts and circumstances detailed within, the Commission advises as follows with respect to the questions posed.

***What is the scope of the limitation on a Board member’s participation in Board matters when the member’s spouse is employed in the District as a substitute?***

You indicate that your spouse is a substitute in the District, the District “does not currently use an outside agency for the placement of substitutes. The District directly engages the substitute.” You further indicate the Superintendent recommends the list of substitutes to the Board for approval and the substitutes are not affiliated with any bargaining unit. You state that “the substitutes are assigned on a first reply basis to a notice of need for a vacancy as posted on Frontline, an internet platform for personnel management. Substitutes report to and are managed by the Superintendent, who also serves as a Principal.” Once again, the Commission advises that A24-17 clearly details that when the Board, or in this case, the Superintendent is “directly responsible for hiring the substitute personnel to work in the District,” the Commission considers these substitute employees “to be employees of the District,” and therefore, you would have a conflict regarding any and all matters related to the employment of substitute personnel, including any committees that are linked to the employment of substitutes or their payment. By way of example, you would have a conflict with respect to committees, including appointing members to committees, such as the Human Resources committee, if they touch upon the employment of your spouse. The Commission further advises you are conflicted from any matters concerning the Superintendent, including the search, hire, contract and evaluation, because you have indicated the “[s]ubstitutes report to and are managed by the Superintendent,” and not an outside agency as outlined in A24-17.

***What is the scope of the limitation of a Board President’s authority in the functions of that office when the President’s spouse is employed in the District as a substitute?***

You have stated, “the President sits *ex officio* on every committee. The President then appoints the remaining members to each committee up to four members inclusive of the President.” The Commission notes that A05-25 and A05-23, which you have cited, provide detailed guidance regarding board members who have conflicts, specifically a board president, and how that conflict affects their role as board president. Therefore, the Commission advises, consistent with A05-25 and A05-23, your spouse’s employment as a substitute in the District, presents a conflict for you, and therefore, you may not choose the members of, and/or serve as an *ex officio* member of any committee that even remotely touches upon or directly relates to your spouse’s employment, such as the “Human Resources” committee. The Commission notes that you have not indicated that the Board Vice President has a conflict, and therefore, the Vice

President may choose the committee members of, and serve as the *ex officio* member of, those committees for which you have a conflict.

The Commission further notes, despite your suggestion that “the blanket prohibition of service on committees by the President in an *ex officio* capacity is worthy of further consideration,” the Commission has seriously considered this matter and it cannot predict every possible conflict that may arise related to your role as Board President, while you are employed as a teacher and while your wife is employed as a substitute in the District, and recognizes the limitations it may place on you in your role as Board President; however, there are not any precautions adequate enough to protect the public trust and confidence save your recusal from such Board activity.

***Does the retirement of the member and the cessation of active membership in the statewide teachers’ union (NJEA) abate the conflict created by such membership? After you retire in June 2026, will the conflict related to your membership in a statewide teachers’ union dissolve upon your retirement?***

You have noted that you will be retiring in June 2026 and you “currently do not plan on joining the New Jersey Retirees’ Education Association.” The Commission notes that although your employment as a teacher “in a district several counties geographically removed from the district in which you serve” and your anticipated receipt of pension benefits upon your retirement does not present a prohibition to your service on the Board, your recent anticipated retirement creates the appearance of a conflict of interest for you with respect to the negotiations committee. The Commission considers it reasonable for members of the public to believe you, having recently retired after serving as a longtime teacher and union member, would be unable *at this time* to separate your past lengthy involvement with the NJEA from your present role on the Board, and may be suspect to surrender your independent judgment in violation of the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.*

Therefore, the Commission advises that to avoid a violation of the Act, and to preserve the public trust, you should not participate in, nor be a member of any committees, that are related to the local union for **one full term** after you actually retire. The Commission notes that it has issued public advisory opinions that discuss conflicts for retired teachers, namely *Advisory Opinion A24-16* (A24-16), *Advisory Opinion A26-15* (A26-15) and *Advisory Opinion A34-14* (A34-14).

***Does membership in the New Jersey Retirees’ Education Association still constitute a conflict of interest? If you completely sever membership in the NJEA, does this end that conflict?***

The Commission reaffirms that to avoid a violation of the Act after you retire in June 2026, and to preserve the public trust, you should not participate in, nor be a member of any committees, that are related to the local union for **one full term** after you actually retire. The Commission notes that A24-16 is instructive to this inquiry.

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