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SCHOOL ETHICS COMMISSION

March 24, 2026

For Public Release

Subject: Public Advisory Opinion – A07-26

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 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 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 (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 the Board member is also the Chief of Police for the Township. You further provide that the Board member's spouse is a "fourth grade teacher in the [] School District" (District) and the Board member's spouse is also a member of the "[Local] Education Association [(LEA)] Negotiations Committee."

You note that based "upon a review of the various advisory opinions, [you] had furnished legal advice to the Board advising that the Board member would be prohibited from voting on or participating in matters involving" the Superintendent, personnel matters, the LEA contract negotiations, matters involving the supervisor of the Board member's spouse, budget discussions, student matters with police involvement, any contractual matter between the Board and the Police Department and serving on the personnel, finance and negotiations committees.

You further inform the Commission that you have "specifically reviewed" *Advisory Opinion A24-17* (A24-17) and *Advisory Opinion A05-23* (A05-23) and you note that "[b]oth of those advisory opinions contain language suggesting that it would be a conflict for [the Board member] to participate in budget matters and to serve on the Finance Committee." You state that

A24-17 “suggested that ‘an unwarranted privilege, advantage or employment’ would exist for the relative if the Board member were to participate in matters involving the budget.” As to A05-23, you further state, “the advisory opinion focused on an analysis as to participation in committees and due to a Board member’s spouse being employed in the district, the Board member was prohibited from being ‘involved in any and all matters (including service on a committee(s)) that remotely touch upon or directly relate to the spouse’s employment . . .’” Ultimately, you believe the cited advisory opinions “do not clearly state there are actual conflicts.”

You note, “[a] review of these matters causes a certain degree of confusion as the advisory opinions do not clearly state that there are actual conflicts, but instead suggest that participation in budget discussion(s)/vote(s) as well as serving on a Finance Committee would somehow provide an unwarranted privilege or advantage without specifying what the actual privilege or advantage was.”

You suggest “that the [Commission] should review the above referenced advisory opinions, as well as any others, to clarify whether there are actual conflicts associated with the matter referenced in this letter”

With the above in mind, you inquire whether “participation in budget matters and/or serving on a Finance Committee would be prohibited conduct” for the Board member.

As an initial matter, the Commission would like to clarify how it determines the advice that is provided when considering advisory opinions. First and foremost, the Commission considers whether the specific prospective conduct would violate the School Ethics Act (Act), and **it examines each circumstance on a case-by-case basis**. Although the Commission strives, among other things, to be consistent when rendering its advice, the advice must reflect the specific facts and circumstances presented within the request, and therefore, is not identical. Notably, public advisory opinions are to be utilized as guidance to school officials who may question whether their conduct, or the conduct of another school official, may violate the Act; however, public advisory opinions contain information that is **fact specific to the requestor**, and although they provide guidance, the Commission strongly recommends that a school official request an advisory opinion based upon their individual specific facts and circumstances.

The Commission would also like to provide clarity regarding the limitations of a board member’s activity when they have a member of their immediate family/relative employed by the Board and further address your interpretation of A24-17 and A05-23. First, A24-17 provided detailed guidance regarding a board member’s specific activity related to contract negotiations and the superintendent’s employment due to the board member’s sister’s employment with a Company that provided substitutes to the school district. Notably, the subject board member in A24-17 inquired “to what extent, [the board member’s] sister’s employment with the Company, and the Company’s contractual relationship with the Board, creates a conflict for [the board member’s] Board activity.” A24-17 further established that the board member’s sister was a relative and because the School Ethics Act “and N.J.S.A. 18A:12-24 in particular, does not specifically address prohibited conduct by Board members with regard to their ‘relatives’ . . . any such allegation falls within the umbrella of ‘others.’” Ultimately, the Commission opined in

relation to “others,” that “a school official is prohibited from using his/her official position to secure an *unwarranted* privilege, advantage or employment.” The board member in A24-17 was therefore prohibited from securing any unwarranted privilege, advantage or employment for the sister’s benefit. The Commission further opined that “without any representation that specific District personnel, such as the superintendent or a building principal, have any influence over or can affect [the sister’s] employment in the District, and without any representation that [the] sister’s salary is affected by or tied to contract negotiations with the local union, it would not be a violation of N.J.S.A. 18A:12-24(b) for [the subject board member] to participate in any and all issues concerning District personnel, the superintendent, or the budget. Nonetheless, in the event that an issue involving [the board member’s] sister or her employer is presented to the Board for review and action, [the board member] would need to recuse [] from any and all discussions and votes on those matters.” Contrary to your summary of A24-17, the Commission provided specific, detailed analysis in response to the subject board member’s inquiry, which was unrelated to the budget, and therefore, matters concerning the budget were not addressed.

Next, the Commission’s advice in A05-23 centered around two board members, the board president and the vice president, who were both conflicted due to their respective familial and employment relationships within the school district, and whether the Board President could choose committee members, choose the chairs of any committees and “sit” on any committees. Based on the specific facts and circumstances described in A05-23, the Commission opined that because the two subject board members, namely the board president and vice president, had immediate family members/relatives (child, spouse and son-in-law) employed in the same school district, their prohibitions extended to choosing the committees and appointing committee members to the committees that touched upon their immediate family members’ employment. The requestor listed the board’s committees and employment role of each of the subject board member’s family/relative and based on those particular facts, the Commission provided specific, detailed advice related to same. Once again, matters specifically concerning budget were not discussed.

The Commission reaffirms it provides its advice based upon the facts and circumstances that are presented in the request. The Commission cannot predict every possible conflict that may arise nor is the Commission compelled to specifically name every possible conflict that may arise. The advice that the Commission issues directly relates to the inquiry raised in each request. It is the responsibility of the school official to recognize, based upon the Commission’s advice, their potential conflict related to the circumstances they provided, as well as to the circumstances they did not provide, or that may arise, and to avoid the conduct that has the appearance of violating the School Ethics Act (Act).

Turning to your request, and based upon the specific facts and circumstances presented within, the Commission advises that because the Board member’s spouse/immediate family member is employed in the District as a teacher, is a member of the LEA and is a member of the LEA negotiations committee, the Board member has a conflict related to the LEA, and any administrators in the chain of command of his/her spouse. Other than the obvious Superintendent, it is unclear by your request whether any other administrators are in the chain of command of the Board member’s spouse, and therefore, the Board member will need to apply reasonable judgment related to the administrators for whom he/she will need to recuse and

abstain. In addition, the chart in A24-17 clearly provides a comprehensive analysis of the conflict principles that apply when a board member, like the Board member, has an immediate family member employed by the Board and who is a member of the same statewide union. Unlike the familial relationship described in A24-17 (sister/relative), the Board member's spouse is a member of his/her immediate family and this type of relationship not only implicates *N.J.S.A.* 18A:12-24(b), which states, "No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages, or employment for himself, members of his immediate family or others," but numerous other provisions of the Act.

The Commission further advises, as indicated in A05-23, that the Board member should not participate in any committees that "remotely touch upon or directly relate to" his/her spouse's employment. It is unclear by your request the exact nature of the Board's committees. However, your request notes that you have advised the Board member that he/she should not serve on the Personnel Committee, the Finance Committee and/or the Negotiations Committee. The Board member's potential conflicts related to the Negotiations Committee are obvious, based upon his/her spouse's employment, membership in the LEA and role on the LEA negotiations committee; however, the potential conflicts that may arise while serving on another committee may not be so obvious to the Commission and/or the public. It is for this reason, the Commission provides general guidance, namely "remotely touches upon or directly relates to" the employment of the Board member's family. To this end, and because the Board member's spouse is employed as a teacher in the District and the Board member is the Chief of Police, if one or more of the committees, i.e., the Finance Committee, among others, discusses budgets or any other issues related to teacher salaries/employment and/or discusses budgets or any other issues related to i.e., the school resource officers, or other police related matters, then the Board member must, as you have already advised, abstain from all discussions and votes related to same, including not being a member of that committee. Therefore, the Commission agrees with your legal advice, namely that the Board member should not serve on the Personnel Committee, the Finance Committee and the Negotiations Committees. The Commission reiterates it cannot predict every matter that could be discussed in a committee, and therefore, it is the responsibility of the board member to recognize their individual conflicts and not to be involved in those committees that remotely touch upon or directly relate to their immediate family member's employment.

The Commission also advises that because the Board member is the Chief of Police for the Township, should any matters come before the Board that are linked to the Board member's employment, including but not limited to, as you noted, student matters with police involvement and any contractual matter between the Board and the Township Police Department, the Board member should not participate in the discussions and/or the votes related to same.

In sum, the Commission reiterates that its advice is based upon the facts and circumstances presented in your request and it cannot determine whether a conflict between the Board member and his/her involvement in any other committees/matters may present itself, or if one a different nature may develop, but is unknown at this 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