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SCHOOL ETHICS COMMISSION

March 24, 2026

For Public Release

Subject: Public Advisory Opinion – A08-26

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 has a sister who is a high school teacher in the School District (District) and the sister is also the president of the Local Education Association (LEA). You state the Board member's boyfriend/girlfriend is also a teacher in the District.

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 sister and boyfriend/girlfriend, budget discussions 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 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 relative, such as a sister, 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, as here, 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, 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 had immediate family members/relatives (child, spouse and son-in-law) employed in the same school district, their prohibitions extended to the committees that touched upon their immediate family members’ employment. The requestor listed the board’s committees, potential matters that the committee would discuss and the employment role of each of the subject board member’s family member/relative and based on those particular facts, the Commission provided specific, detailed advice related to same. Once again, the budget was not discussed.

The Commission reasserts that 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 it compelled to list every possible conflict. 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 notes that unlike the sister in A24-17, the Board member’s sister is employed by the Board. Nonetheless, A24-17 clearly indicated “A board member with a relative who is employed in the District, cannot participate in any aspect of negotiations, including the vote on the collective negotiations agreement following attainment of the memorandum of the agreement” In addition, a Board member who has a relative employed within the District is also “prohibited from participating in any and all issues related to the superintendent, including the search, contract approval, and evaluation of performance.” Therefore, the Commission advises that the Board member may not participate in any matters, including committees, that

relate to the LEA and any supervisors, including the Superintendent, who are in his/her sister's chain of command.

Further as you have noted, the Board member's boyfriend/girlfriend is considered to be an "other." A24-17 clearly notes as "'others' is not defined by the Act, *any individual* can be an 'other,'" including a boyfriend/girlfriend as well as "people that fall within the definition of 'relative,'" which also includes the Board member's sister. Consistent with the advice in A24-17, the Commission further advises under *N.J.S.A. 18A:12-24(b)*, the Board member is prohibited from using his/her official position to secure an *unwarranted* privilege, advantage or employment for himself, members of his/her immediate family or *others*. While the Commission cannot possibly foresee or describe every possible "unwarranted privilege, advantage, or employment," as well as other conflicts that may arise for the Board member whether as an individual Board member and/or on a committee, there are plenty of scenarios where the Board member could provide an "unwarranted privilege, advantage, or employment." For example, the Board member would provide his/her sister and/or boyfriend/girlfriend with an unwarranted, privilege, advantage, or employment if a position became available in the District to which the Board member's sister/boyfriend/girlfriend applied and the Board member used his/her position on the Board to secure employment by hiring his/her sister/boyfriend/girlfriend for the position, or if the Board member's sister/boyfriend/girlfriend was a coach in the District and he/she, as a Board member, sought and/or obtained an additional stipend for coaches, or if the Board member's sister/boyfriend/girlfriend came before the Board for a disciplinary action and the Board member convinced the Board not to take action based on his/her relationship with his/her sister/boyfriend/girlfriend.

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 sister'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 Negotiations Committee and/or the Finance Committee. The Board member's potential conflicts related to the Negotiations Committee are obvious, based upon his/her sister's employment, membership in the LEA and role as President of the LEA; however, the potential conflicts that may arise while serving on another committee may not be so obvious to the Commission and/or members of the public. Therefore, the Commission agrees with your "legal advice" that the Board member should not serve on the Personnel Committee, the Negotiations Committee and/or the Finance Committee. The Commission reiterates it cannot predict every matter that could be discussed in a committee, and therefore, it is the responsibility of each member of a board of education to recognize their individual conflicts and abstain from any discussions and recuse from any votes related to same and to discuss their potential conflicts with counsel.

The Commission appreciates the precautions you have implemented to avoid the appearance, actual or perceived, of impropriety related to the Board member's position vis-à-vis his/her sister/boyfriend/girlfriend, and it is incumbent on the Board member that he/she continues to consider the possible appearance of impropriety in all of his/her actions.

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