



MIKIE SHERRILL  
Governor  
DR. DALE G. CALDWELL  
Lt. Governor

State of New Jersey  
DEPARTMENT OF EDUCATION  
PO Box 500  
TRENTON, NJ 08625-0500

DR. LILY LAUX  
Commissioner

## SCHOOL ETHICS COMMISSION

April 28, 2026

### For Public Release

Subject: Public Advisory Opinion – A09-26

The School Ethics Commission (Commission) received your request for an advisory opinion regarding the conduct of a member of the Board of Education (Board). You verified that you copied the subject of your request, Board Member, thus complying with *N.J.A.C. 6A:28-5.2(b)*. The Commission notes that Board Member submitted a response to your request,<sup>1</sup> and therefore, the Commission will issue its advice based on the information included in your request, as well as the information included in Board Member's response. 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 April 15, 2026, and again at its regular meeting on April 28, 2026.

You inform the Commission that Board Member owns a private business, which offers full-day kindergarten services. You note according to the company's website, "the school explicitly advertises 'full-time preschool' and 'full-time kindergarten' programs," and "further promotes" full day preschool and kindergarten/first grade programs. You further note these program offerings "are substantially similar to the full-day kindergarten program under consideration by the [Board]."

You further inform the Commission that the Board "is scheduled to vote on April 27, 2026[,] on a school budget that includes, for the first time, implementation of full-day kindergarten." You state the Board's "[e]xpansion of publicly funded full-day kindergarten may reasonably be expected to affect demand for private full-day kindergarten and childcare services,

---

<sup>1</sup> Subsequent to the submission of the request for an advisory opinion, the subject Board member submitted a response pursuant to *N.J.A.C. 6A:28-5.2(b)*. The request and the response thereto are acceptable submissions. Thereafter, the requestor submitted a "supplemental letter," and the subject Board member submitted a response to the "supplemental letter." The "supplemental letter" and the response thereto are not acceptable filings, and therefore, the Commission issued its advice based solely on the request and the response to the request.

including those offered by [Board Member's] business." You further state the Board will be required to make decisions regarding hiring kindergarten teachers, program staffing levels and program expansion and quality, which could directly impact the competitiveness and quality of the District's kindergarten program, the attractiveness of the program to families and the demand for private alternatives.

Based on the information provided in your request, you inquire whether ownership in a private business that offers full-day kindergarten services would create a conflict for Board Member that would require him/her to recuse from the Board's budget vote involving the implementation of full-day kindergarten and to recuse from subsequent staffing and program decisions that may influence the success and competitiveness of that program.

Following submission of your request, Board Member submitted a response, which provides that the "mere ownership of a private business, which is NOT even in [] Township, does not, in and of itself, establish a conflict requiring recusal – particularly in the absence of any direct financial benefit tied to the Board's actions." Board Member notes that "regardless of whether full day kindergarten is offered by the [] School District, it will have zero impact on [the] business." Board Member further notes that the Acting Superintendent "clearly stated" "that the implementation of full-day kindergarten did not have an impact [on] the budget as staff members are being moved from the kindergarten wrap around program to the full day classrooms."

Board Member states although he/she is "supportive of the implementation of full-day kindergarten, it is important to emphasize that the budget vote itself is not a vote on full-day kindergarten." Board Member further states his/her "concerns regarding budget have been consistent and grounded in process and fiscal responsibility." Ultimately, Board Member notes "the budget includes a substantial increase . . . which carries serious implications for taxpayers."

In its review of the specific facts and circumstances detailed in your request, as well as in Board Member's response thereto, the Commission advises that Board Member is not prohibited from voting on the Board's budget, which may include allocations related to the implementation of full-day kindergarten, simply because he/she owns a private business, in a neighboring town, that offers full-day kindergarten services. The fact that Board Member owns a private business, in a neighboring town, that provides a full-day kindergarten program, without more, does not, limit his/her involvement in voting on the District's budget. The facts, as presented here, do not indicate that Board Member was involved in the discussions and/or creation of the current school budget, i.e., on a committee, or that he/she was involved in discussions and/or planning of the implementation of full-day kindergarten. Therefore, his/her mere ownership in the business does not diminish or limit Board Member's ability to vote on the budget.

As to your second inquiry related to staffing and program decisions, the Commission further advises that Board Member is not prohibited from participating in general staffing and program decisions related to the District's implementation of full-day kindergarten. However, should one of the teachers/staff members who are employed by Board Member in his/her private business, apply for a position in the District, in any capacity, Board Member, in his/her role as a

Board member, should not participate in any Board discussions related to that employee nor participate in any votes related to same.

The Commission notes that board members should always take precautions to avoid conflicts under the Act. Although not part of your request, the Commission cautions that Board Member should not solicit for his/her business within the District schools and/or among its employees nor use his/her position on the Board to promote or obtain business for his/her company.

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