



## State of New Jersey

DEPARTMENT OF EDUCATION

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Acting Commissioner

### SCHOOL ETHICS COMMISSION

January 31, 2023

#### For Public Release

Subject: Public Advisory Opinion – A02-23

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 Board member who is the subject of the request, thus complying with *N.J.A.C.* 6A:28-5.2(b). The Commission notes that the subject Board member (Board member) did not submit comments and, therefore, the Commission will provide 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. *N.J.S.A.* 18A:12-31. Pursuant to *N.J.S.A.* 18A:12-28(b), the Commission preliminarily discussed this matter at its Advisory Opinion Committee meeting on January 11, 2023, and then discussed it again at its special meeting on January 31, 2023.

In your request, you inform the Commission that the School District (District) "is seeking to potentially enter into a shared services agreement with the Borough [(Borough)] to employ a School Resource Officer [(SRO)] to serve the District." You further inform the Commission that the Board member's spouse currently serves as a councilman for the Borough.

Based on the aforementioned information, you inquire whether the Board member's familial relationship with a Borough councilman "creates a conflict prohibiting [the Board member] from participating in negotiations and/or voting on contractual matters with the Borough ... including the ... SRO contract," or otherwise violates the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.*

In its review of the specific facts and circumstances detailed in the request, the Commission advises that because the Board member's spouse is a councilman for the Borough, which is similar to the Board member's service as a member of the Board, it would be a conflict of interest for the Board member to vote on any matter involving the entity or public body on which the spouse contemporaneously serves as a voting member. The Commission regards the facts and circumstances at issue here as being similar to a school official's vote on a matter involving their spouse's employer. Regardless of whether the Board member and/or his/her spouse may have an

actual or only a perceived personal or financial involvement (direct or indirect) in such matters, the Board member's involvement could violate the public confidence. As such, the Board member must recuse himself/herself from participating in any and all discussions and votes related to the Borough, including participating "in negotiations and/or voting on contractual matters with the Borough ... including the ... SRO contract." Whether the Board member's spouse should also recuse himself/herself from matters involving the Board is a matter outside the scope and jurisdiction of the Commission.

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. In addition, 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