



State of New Jersey

DEPARTMENT OF EDUCATION

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SCHOOL ETHICS COMMISSION

February 4, 2022

For Public Release

Subject: Public Advisory Opinion – A03-22

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. *N.J.S.A.* 18A:12-31. Pursuant to *N.J.S.A.* 18A:12-28(b), the Commission discussed your request at its special meeting on February 4, 2022.

In your initiating request, and in response to the Commission's request for additional information, you inform the Commission that the Board is slated to begin contract negotiations with the local education association in District A; apart from your membership on the Board, you are employed by another School District (District B) as a full-time bus driver; you represent that you are not a member of the "collective bargaining unit by choice"; the local education association in District B is the exclusive bargaining agent for your title/position within District B; and the terms of your employment are governed by the collective negotiations agreement between the board of education and the local education association in District B.

You further inform the Commission that you have reviewed public *Advisory Opinion A32-17* (A32-17) and *Advisory Opinion A24-17* (A24-17); however, it is your position that A32-17 and A24-17 "refer to union members not unit members." As such, you seek to determine whether, as a Board member who is not a member of the local education association in District B "by choice," you can be involved in negotiations with the local education association in District A.

Based on the understanding that the local education association in District A and the local education association in District B are affiliated with the same statewide union, namely the New Jersey Education Association (NJEA), the Commission notes the previously issued advisory opinion referenced in your request, namely A24-17, sufficiently addresses the question posed.

In keeping with the Commission's advice in A24-17, and although you chose not to be a dues paying member of the local education association in District B, the local education association in District B remains the exclusive bargaining representative for your position/title. In other words, even though you may not be a dues paying member of the local education association in District B, the local education association in District B still conducts negotiations on behalf of those represented by the local education association in District B, and that includes anyone in your position/title. Therefore, because you are a member of a local education association in District B, albeit as a non-dues paying member, that is affiliated with the NJEA, and because the local education association in District A is also affiliated with the NJEA, you are precluded, as set forth in A24-17, from being involved in all aspects of contract negotiations with the local education association in District A. However, and as noted in A24-17, absent another conflict, once the memorandum of agreement, including salary guides and the total compensation package, has been resolved, you may vote on the final form of contract.

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 re-evaluate the existence of potential conflicts. In addition, the only way for a public 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