



State of New Jersey

DEPARTMENT OF EDUCATION

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DAVID C. HESPE
Acting Commissioner

April 23, 2014

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A09-14

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion on your behalf, regarding you as a member of the Local Board of Education (Board). The Commission will provide its advice based on the information you included in your advisory opinion request. Pursuant to your request for an advisory opinion and consistent with its authority under N.J.S.A. 18A:12-28(b), the Commission discussed this matter at its March 25, 2014 meeting. The Commission's authority to issue advisory opinions is expressly limited to determining whether any proposed conduct or activity would constitute a violation of the School Ethics Act. N.J.S.A. 18A:12-31.

You have asked whether it would be a violation of the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq., for you to be involved in the status of negotiation discussions with the NJEA and whether you can vote on the contract since you are a teacher in a different District covered by the American Federation of Teachers (AFT) union, which is not affiliated with the NJEA.

The Commission considered whether the Board member's proposed conduct would violate N.J.S.A. 18A:12-24(c), which sets forth:

No school official shall act in his official capacity in any matter where he...has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he...has a personal involvement that is or creates some benefit to the school official or member....

In its review of your inquiry and the set of facts you articulated, the Commission finds that although the NJEA and the AFT are not affiliated, they do share common traits and common goals in their efforts to negotiate a contract. Moreover, they often share the same personnel, the same strategies, negotiators, and labor relations officials. On the facts that you have provided, the Commission found that it would be impossible to avoid a violation of N.J.S.A. 18A:12-24(c), as there may be other latent financial connections between the two similar, but separate unions. If any benefit by way of salary, schedules, insurance package or emolument of any kind granted inures to you as a teacher from your involvement as a Board member, then a link or an indirect

financial involvement would exist. Such a link would create a conflict, which would prohibit you from engaging in all negotiations or discussions regarding its members. Moreover, where you have a hand in negotiating those benefits that ultimately redound to you, then a violation is certain to be found, which would compromise the public trust.

Therefore, the Commission finds that you would violate N.J.S.A. 18A:12-24(c) if you were to negotiate or be involved in discussions where you sit as a Board member when the terms of the contract may benefit you in your position as teacher.

We hope this answers your inquiry.

Sincerely,

Robert W. Bender, Chairperson