



State of New Jersey

DEPARTMENT OF EDUCATION

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October 27, 2015

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A13-15

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion on behalf of a member of the Board of Education (Board) of District A. You have 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 this 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 proposed conduct or activity would constitute a violation of the School Ethics Act. N.J.S.A. 18A:12-31.

You inform the Commission that a Board member is employed in another district (District B) as a supervisor. The Board member is represented in her position by the local affiliate of the NJ Principals and Supervisor's Association (NJPSA), which you state is in no way affiliated with the NJEA. You also assert that District B, which employs the Board member, and District A have local affiliates of the NJEA and NJPSA, and that both affiliates in each District have no contractual relationship to each other in any way. Moreover, you maintain that the supervisors are not governed by the terms of the contract between either Board of Education and their local affiliate of the NJEA. Given the facts presented, you ask if the Board member would violate the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq., if the member were to participate in discussions regarding and/or voting on the local education association's contract.

The question before the Commission turns on the application of N.J.S.A. 18A:12-24(c), which provides that:

No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, 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 or a member of his immediate family has a personal involvement that is

or creates some benefit to the school official or member of his immediate family.

To avoid a violation of the Act, the Board member must not engage in any matter in her official capacity as a member of the Board which may reasonably be expected to impair her independence of judgment or where she has a personal involvement that is or creates some benefit to the official or a member of her immediate family. Based solely on the information presented to the Commission in the advisory opinion request, the Commission does not see at present a violation of the Act as there appears to be no link between the prospective actions of the Board member with her duties outside the District. The Commission reiterates that the nature of advisory opinions are determined by and limited to the facts presented before the tribunal; therefore, should additional facts arise or exist that have not been disclosed to the Commission, a violation may indeed occur. To avoid a violation, the Board member must continually question whether she has a personal involvement that is or creates a benefit to her, and ensure that she continues to have no direct or indirect financial involvement that might reasonably impair the Board member's objectivity or independence.

Sincerely,

Robert W. Bender, Chairperson
School Ethics Commission