



State of New Jersey  
DEPARTMENT OF EDUCATION  
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*Governor*

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*Lt. Governor*

KIMBERLEY HARRINGTON  
*Acting Commissioner*

October 24, 2016

**FOR PUBLIC RELEASE**

SUBJECT: Advisory Opinion—A24-16

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion on your own behalf as Vice-President of the Local Board of Education (Board), a K-8 school district. The Commission will provide its advice based solely on the information included in your request, and its 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 this matter at its September 27, 2016 meeting.

In your request, you inform the Commission that you were employed by the Neighboring School District as a teacher until your retirement in 2001. You also indicate you have never been employed in the Local School District as a teacher, but that the Local School District sent its high school students to the Neighboring School District until the 2015-2016 school year. Prior to your retirement, you were a member of and active in the local NJEA affiliate in the Neighboring School District, and held several positions with that affiliate, including as Committee Chair, Vice-President, and President (which made you an Ad Hoc member of the negotiating team). Finally, when you retired, you made a one-time payment to become a lifelong member of the NJREA, the retired educators association. As a result of this membership, you receive monthly publications, but are not otherwise involved with the association in any way. You state that your Board will be entering negotiations with the local teachers union in 2017, and you want to know whether your past involvement and association with the NJEA limits your participation in negotiations and, if so, to what extent.

The Commission considers the significant amount of time between your active, involved membership in the NJEA and the present to be a significant factor in this analysis. As a result of the time that has elapsed, the Commission does not believe you have a limitation under the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq., for negotiations. Under the facts presented in your request, the Commission cannot advise that the Act limits your role on the Board, or in negotiations. However, the Commission cautions that, as with any Board member, a conflict not anticipated or contemplated may always unexpectedly present itself in the future. By way of example, if a matter comes before the Board that might affect or benefit a retired member of the

NJEA, such as through benefit changes through negotiations, a conflict would present itself requiring absolute recusal from that matter and abstaining from all votes. As a Board member, you must always be cognizant of the responsibility to protect the public trust and the obligation to serve the interests of the public and Board, and constantly evaluate if a conflict has developed on a matter coming before you as a Board member.

Sincerely,

Robert W. Bender, Chairperson  
School Ethics Commission