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DEPARTMENT OF EDUCATION

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January 26, 2016

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A25-15

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion on behalf of the Board of Education (Board). You have verified that you copied the Board members, who are the subject of the request, thus complying with N.J.A.C. 6A:28-5.2(b). The Commission notes that these Board members did not submit comments. 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 discussed this matter at its December 15, 2015 meeting.

You inform the Commission that members of the Board have relatives who are either full-time employees of the District and members of the Local Education Association (LEA), an affiliate of the NJEA, or have relatives who are full-time employees in a different school district and members of the NJEA. The nature of the relationships is as follows:

- 1) A Board member has a spouse who is an NJEA member and employed by a different school district;
- 2) A Board member is a member of the New Jersey Principal and Supervisors Association (NJPSA) and employed by a different school district;
- 3) A Board member has a spouse who is a paraprofessional employed by the District and member of the LEA; and
- 4) A Board member has a sister who is an NJEA member and employed by a different school district.

In response to your queries regarding the impact of these relationships on the Board members and their activity on the Board, please be advised that the Commission recently issued other advisory opinions on this topic. The Commission considers that advice sufficient to respond to your request. The Commission advises that you review advisory opinions Advisory

Opinion—A11-15, Advisory Opinion—A16-15, and Advisory Opinion—A19-15 with your Board counsel and the Board members who are the subjects of your request. These advisory opinions have all been made public by the Commission, and may be accessed on the Commission's website, at the following link:

<http://www.nj.gov/education/legal/ethics/advisory/chrono.htm>

In sum, with regards to Board members whose relative is employed by the District¹ and a member of the LEA, the conflict under the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq., extends to all matters involving the LEA as well as to the relative's supervisors, and other superiors in the chain of command ending with and including the Superintendent. For Board members whose relatives are employed by a different District but are members of the NJEA, the inquiry turns on an analysis of those relatives' involvement with the Union in their District of employment. However, if a Board member's spouse is a member of the NJEA in a different district, the conflict is absolute, pursuant to N.J.A.C. 6A:23A-6.2(a)(6).

Finally, the Commission refers the Board member who is a member of the NJPSA and employed by a different school district to Advisory Opinion—A13-15, which is also publicly available at the above link. This Opinion advises that a Board member, employed in another district as an administrator and represented by an administrators union, may negotiate with the in-district local NJEA affiliate when there is **absolutely no linkage**, in either district, between the respective NJEA affiliates and the administrators' union which represents the Board member.

Sincerely,

Robert W. Bender, Chairperson
School Ethics Commission

¹ The classification of a spouse who is an employee of the District as a paraprofessional does not change the application of statutory and regulatory prohibitions on the conduct of the school official. See: Advisory Opinion—A25-14.