



State of New Jersey  
DEPARTMENT OF EDUCATION  
PO Box 500  
TRENTON, NJ 08625-0500

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

DAVID C. HESPE  
*Acting Commissioner*

November 26, 2014

**FOR PUBLIC RELEASE**

SUBJECT: Advisory Opinion—A43-14

Pursuant to your request for an advisory opinion, filed on your behalf as a school official with the Local Board of Education (Board), and consistent with its authority under N.J.S.A. 18A:12-28(b), the School Ethics Commission (Commission) discussed this matter at its October 28, 2014 meeting. The Commission will provide its advice based solely on the information you included in your advisory opinion request.

Your request provides a series of facts that inform the Commission that you anticipate negotiations between the Board and the Local Education Association (LEA), an affiliate of the statewide New Jersey Education Association (NJEA). Further, you inform the Commission that your daughter lives in your home, but she is not a dependent of you or your husband, including for income tax purposes. You further explain that your daughter recently began employment as a paraprofessional (504 teacher assistant) in the Neighbor Township School District, where she has declined to join the Neighbor Township Education Association (NTEA), which, like the LEA, is an affiliate of the NJEA. Though your daughter has declined membership with the NTEA, she still pays 85% of membership dues, as required by the contract between the NTEA and the local board of education. In addition, her salary is governed by guidelines set forth in the same contract. You inquire if you will be limited in your role and involvement in the upcoming negotiations between the Board and the LEA.

The Commission determined that since your daughter is not a dependent, she does not meet the definition of “immediate family member,” and therefore, no violation of N.J.S.A. 18A:12-24(c) is implicated. However, the Commission has determined that your involvement in negotiations or its process between the Board and the LEA would constitute a violation of N.J.S.A. 18A:12-24(b).

N.J.S.A. 18A:12-24(b) provides that “no school official shall use or attempt to use her official position to secure unwarranted privileges, advantages or employment for herself, members of her immediate family or others.” The Commission determined that “others” includes relatives as defined in the Act, such as your daughter, a non-dependent child. The Commission makes this determination given the nature of negotiations between boards of

education and their local education associations, which are affiliates of the NJEA. These negotiations are not conducted blindly or without an understanding of the contracts of other districts. Negotiators, on either side, often use contracts of other districts to support and fashion benefits, including salary guides. As such, changes to the salary guidelines for paraprofessionals (504 teacher assistants) in your district could be used as precedent to argue for changes to the guidelines in other districts, like the district that employs your daughter. Due to this, the Commission has determined that your involvement with the upcoming negotiations between the Board and the LEA would constitute a violation of N.J.S.A. 18A:12-24(b).

The Commission also maintains that its determination in Martinez v. Albolino et al., Hackensack Board of Education, Bergen County, SEC Dkt. No. C45-11 (June 26, 2012), and its progeny, would be enlightening to you in understanding our conclusion and to address questions raised in your request. In your situation, your noninvolvement in the upcoming negotiations should be in relation to all aspects of its process between the Board and the LEA as that of the superintendent search and hire process is in Martinez. The Commission encourages you to discuss with the Board attorney the implications of Martinez.

We hope this information is helpful.

Sincerely,

Robert W. Bender, Chairperson