

July 22, 2005

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion A19-05

The School Ethics Commission is in receipt of your request, on behalf of the entire Board of Education (Board), for an advisory opinion. The Board member who is the subject of the request has consented to the advisory opinion request. You have asked whether a Board member, whose sister is a teacher in another school district, and is a member of the same statewide union with which the Board negotiates, has a conflict of interest that would preclude his participation in negotiations with the local education association. You have set forth that the board member's sister is not a member of the local education association and that she is financially independent of the board member. You assert that, by definition under the School Ethics Act (Act), she is considered a "relative" of the board member.

At its June 28, 2005 meeting, the Commission determined, pursuant to its authority in N.J.S.A. 18A:12-28(b), that the Board member would have no conflict of interest that would preclude him from participating in negotiations with the local education association.

Your inquiry turns on the application of N.J.S.A. 18A:12-24(c), which provides:

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;

You have noted that in *Advisory Opinion A08-98*, (June 2, 1998), the Commission advised that a board member, whose sister-in-law was in the local bargaining unit, could negotiate with that union, without violating N.J.S.A. 18A:12-24(c). You have also made note that in *Advisory Opinion A14-02*, (November 15, 2002), the Commission advised that a board member whose brother-in-law was not in the local bargaining unit, but taught in another school district, could participate in negotiations with the local education association. In both advisory opinions, the Commission applied the standard of what "might reasonably be expected to impair objectivity." In *A08-98*, the Commission reasoned that the public would not reasonably expect or perceive that a board member whose spouse's sister is in the local bargaining

unit could not be objective in negotiating. In *A14-02*, the Commission reasoned that it was even less likely that a board member's objectivity would be impaired where his brother-in-law teaches in another school district and is not a member of the local association with which the board will negotiate.

In applying the standard of what "might reasonably be expected to impair objectivity," the Commission must determine whether the public might reasonably perceive that the board member's objectivity is impaired by his relationship to a sister who teaches in another school district, is not a member of the local bargaining unit, but is a member of the same statewide union with which the board will be negotiating. The board member's sister does not fall within the definition of "immediate family member," but, as you noted, falls within the definition of "relative," which means "the spouse, natural or adopted child, parent, or sibling of a school official." See, N.J.S.A. 18A:12-23. In *A08-98*, the Commission reasoned that a board member's relationship with a child is different from that of a spouse's sibling. Although a board member's child and sister both fall within the definition of relative, the Commission believes that a board member's relationship with a child is different from that with a sister. The public could reasonably expect or perceive that a board member would have a great interest in his child's financial well being that would conflict with his duty to the board. However, the Commission does not believe that the public would reasonably expect or perceive that a board member's relationship with his sister would raise the same financial concerns. This is even less likely when the board member's sister is not in the same local bargaining unit with which the board will be negotiating. Therefore, the Commission advises that the board member with a sister who teaches in another school district and who is not a member of the local bargaining unit, but is a member of the statewide union may negotiate with the local education association without violating N.J.S.A. 18A:12-24(c).

We hope that this opinion answers your inquiry. Because the Commission believes that this opinion will be of interest to other board members, it is making it public.

Sincerely yours,

Paul C. Garbarini,
Chairperson