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Acting Commissioner

SCHOOL ETHICS COMMISSION

January 31, 2023

For Public Release

Subject: Public Advisory Opinion – A01-23

The School Ethics Commission (Commission) received your request for an advisory opinion on your own behalf as a member of the Board of Education (Board). 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 preliminarily discussed this matter at its Advisory Opinion Committee meeting on January 11, 2023, and then discussed it again at a special meeting on January 31, 2023.

In your request, you inform the Commission that you have been employed by a food services vendor as a "lunch lady" since 2017, and that you are presently assigned to work at the high school in the School District (District). In this role, you prep for lunch, serve the high school students on a daily basis, and also serve as the cashier. You further inform the Commission that you are "typically on site an average of seven hours per school day," and that you have "very limited interaction with District staff, and only interact with students as they pass th[r]ough the cafeteria line to get their meals and snacks."

Based on the aforementioned information, you inquire whether you would violate the School Ethics Act (Act), *N.J.S.A.* 18A:12-21 *et seq.*, if you were to continue to "perform [your] job responsibilities" in the District.

In its review of the specific facts and circumstances detailed in your request, the Commission advises that it would be a conflict of interest for you to continue your role as a "lunch lady" in the District while you are serving as a Board member. Although your request indicates that you *generally* have "limited interaction with District staff" and that this interaction is seemingly passive, you are still ultimately subject to supervision from senior leadership, including the District Superintendent and building principal(s), and there could be instances, albeit infrequent, when the District Superintendent and/or building principal would need to issue directives to you. Therefore, and to the fullest extent feasible, the Commission recommends that you discuss with your employer reassignment opportunities to another school district.

In addition, and assuming you are transferred to another school district, the Commission further advises that you must recuse yourself from any and all discussions and votes concerning your employer. This prohibition would apply for as long as you are employed by the food services vendor. In addition, this prohibition would apply to any and all discussions and votes concerning competing vendors or entities that offer the same (or similar) products or services as your employer.

Finally, as a reminder, school officials must always be cognizant of their responsibility to protect the public trust, to honor their obligation to serve the interests of the public and the Board, and to periodically re-evaluate the existence of potential conflicts of interest. In addition, the only way for a school official to truly safeguard against alleged violations of the Act is to avoid any conduct which could have the appearance, actual or perceived, of being in violation of the Act.

Sincerely,

Robert W. Bender, Chairperson
School Ethics Commission