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ANGELICA ALLEN-McMILLAN, Ed.D.
Acting Commissioner

SCHOOL ETHICS COMMISSION

January 31, 2023

For Public Release

Subject: Public Advisory Opinion – A03-23

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 discussed this matter at a special meeting on January 31, 2023, and voted to adopt the advice as set forth herein.

In your request, you inform the Commission that you are a newly elected Board member, and a retired New York City Department of Education administrator and special education teacher. Ostensibly because of your education background and experience, you have been asked by the local Special Education Parent Advisory Group (SEPAG), "to attend an advocate training ... for the purpose of advocating for students and families in the Township [P]ublic [S]chool [D]istrict [(District)]." You inform the Commission that as a SEPAG advocate, you would "participate in [Individualized Education Programs (IEP)] IEP meetings, representing families of students with disabilities who are seeking to initiate an IEP or to request related service, modification, or accommodation to an IEP on behalf of their child." You also note, "Advocates often find themselves in opposition to school psychologists and school/district administrators for the purpose of adding/removing a service/modification/accommodation to an IEP."

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 become a SEPAG advocate in the District while serving as a member of the Board.

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 serve as a SEPAG advocate in the District while also serving as a member of the Board. Because of your status and position on the Board, the public may view your role as an advocate, among other things, to be in substantial conflict with your duties and responsibilities as a Board member; as a mechanism

through which you could use or attempt to use your official position to secure unwarranted privileges or advantages for others; and/or as service which might reasonably be expected to prejudice your independence of judgment in the exercise of your official duties as a Board member. Moreover, in advocating for a District student(s) and family, you could be doing so in opposition, whether directly or indirectly, to District staff and administration, and in opposition to the Board itself.

Your request seemingly acknowledges that there is an inherent conflict between serving as an advocate in the District, and your role as a Board member, as it notes, “Advocates often find themselves in opposition to school psychologists and school/district administrators for the purpose of adding/removing a service/modification/accommodation to an IEP.” Although serving as an advocate for students and families in need of special education and related services is truly laudable, you must do so outside of the District.

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