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## SCHOOL ETHICS COMMISSION

**November 28, 2023**

### **For Public Release**

Subject: Public Advisory Opinion – A14-23

The School Ethics Commission (Commission) is in receipt of 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 its meeting on October 17, 2023.

You inform the Commission that your spouse is employed with the New Jersey Department of Education (NJDOE), in the Office of Grants Management. You state your spouse "works as a data manager in connection with entitlement grants through the NJDOE." More specifically, you indicate your spouse serves as the "Electronic Web Enables Grants (EWEG) technology coordinator/data manager for entitlement grant programs administered through the NJDOE." You further state "EWEG is the system that all New Jersey school districts must use to receive education entitlement grant money."

You also inform the Commission your spouse's job responsibilities are limited to data management and software system technology support and include: troubleshooting all reported EWEG system issues; coordination with EWEG software vendor, MTW, to resolve issues for school district users and NJDOE staff in county and state offices; developing and running EWEG system-generated reports; overseeing software testing and new software releases; uploading data including school district allocations into the EWEG system on an annual basis; overseeing the releases of applications and final reports as implemented; running monthly reimbursement payments for school districts across application to ensure that districts receive timely payment for submitted expenses; and assisting, as needed, in annual user training for school districts and providing EWEG system-generated data for state auditing and federal reporting requirements. You note your spouse "does not have any role or authority relative to the approval of any school district for the receipt of entitlement or grant funds," and therefore, it is your "understanding" that your spouse's work "would likely not directly impact any decision that would be made by the Board."

Finally, you indicate that “[a]lthough it appears upon first impression as though there may be no direct conflict, it is [your] intention to abstain from voting on Board business items, if any, in connection with applications for or the receipt of any entitlement grants until [you] receive further guidance from the Commission.”

Based on the information provided in your request, you inquire whether your spouse’s employment with the NJDOE, in the Office of Grants Management, presents a conflict for you that would preclude you from participating in any Board related matters, including whether your involvement in any particular Board business could present an issue under *N.J.S.A. 18A:12-24.1(f)*, or any other provision of the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.*, or other applicable authority.

As an initial matter, the Commission notes that requests for advisory opinions **must** clearly set forth, in specific detail, the prospective conduct or activity that the school official seeks to undertake, and the exact role the official will play in that prospective activity or conduct. *N.J.A.C. 6A:28-5.2(a)*. To the extent you are requesting a general overview of the “conflicts you may have in connection with serving as a Board member,” due to your spouse’s employment with the NJDOE, the Commission notes it cannot opine on non-specific conflicts without more detailed information about the nature of the proposed activity you seek to undertake. In short, the Commission cannot offer clear guidance on theoretical, hypothetical, and non-specific activity or conduct.

Notwithstanding the above, and in its review of the specific facts and circumstances detailed in your request, the Commission advises that because your spouse is employed by the NJDOE, specifically in the Office of Grants Management, it would be a conflict for you to participate in any discussions and/or votes related to any matters involving the Office of Grants Management, including but not limited to any applications that the Board may submit for an entitlement or grant fund opportunity.

Although you indicate that your spouse “does not have any role or authority relative to the approval of any school district for the receipt of entitlement or grant funds,” your participation in any discussion or vote related to an application for an entitlement or grant fund opportunity with the Office of Grants Management would create the perception that the public trust has been violated. In other words, it would appear (actual or perceived) that your involvement with any matters that may come before the Board, which would ultimately be submitted to the NJDOE’s Office of Grants Management, would create a justifiable impression among the public that their trust was being violated.

The Commission commends your due diligence and agrees with your decision to “abstain from voting on Board business items, if any, in connection with the applications for or the receipt of any entitlement grants” for which the Board may apply and further advises that you should continue to do so as long as your spouse continues to work in the Office of Grants Management. The Commission reiterates that advisory opinions are determined by, and are limited to, the facts presented before it; therefore, the Commission cannot determine if an additional conflict may present itself, or if one of a different nature may develop, but is unknown at this time to the

Commission. Should additional facts arise, or facts exist that have not been disclosed to the Commission, you may request an additional advisory opinion if/when more specific facts can be provided as to whether some prospective conduct or activity would violate the Act.

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 reevaluate 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