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SCHOOL ETHICS COMMISSION

October 20, 2021

For Public Release

Subject: Public Advisory Opinion – A17-21

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 its Advisory Opinion Committee meeting on October 6, 2021.

You inform the Commission that you are "considering serving as a volunteer official in school athletic events involving the School District ([District]) and its students." You state you "would be serving as an official in football games in which the District's football team participates." You further state you will not be "calling" the game[s]," because your role would "be limited to 'working the chains'" and this limited role would not "have any impact whatsoever on the outcome of the game."

You further inform the Commission that in your capacity as an official, who will be "working the chains," you would not "be taking direction from or giving direction to any District staff members, students, or other Board members" and you "would waive [your] fee entirely" so that you "would not receive any type of pay or compensation for serving as an official" at the football games.

You explain that you have reviewed public advisory opinions, namely *Advisory Opinion A10-15* (A10-15), *Advisory Opinion A17-15* (A17-15), *Advisory Opinion A32-14* (A32-14), and *Advisory Opinion A08-13* (A08-13) and you "believe the circumstances of [your] potential volunteering activity are similar and analogous to those considered by the Commission in [A10-15], insofar as [your] role as an official at athletic events ... would be limited to 'working the chains' ... rather than making any substantive calls on plays during the game" You note your role as a volunteer official "would be limited in scope and duration, and also would be intermittent, relatively infrequent, passive, and non-executive."

Based on the information provided in your request, you are seeking to determine whether your "proposed volunteer service as an official at football games involving the District's football

team, without compensation, would constitute a violation” of the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.*

As an initial matter, the public advisory opinions cited in your request, namely A17-15, A10-15 A32-14 and A08-13, generally turned on the *degree of involvement* a Board member had with staff and students, as well as the degree to which the Board member had *authority* to give and receive directions and orders to staff during the involved volunteer activity. In these previously issued public advisory opinions, the Commission advised that where the Board member was in a supervisory position and generally oversaw staff or students, such interaction would be inconsistent with the Act.

In its review of the specific circumstances described in your request for an advisory opinion, and after considering its previously issued advice, the Commission advises, based solely upon the facts presented in your request, that you may volunteer as an official who “work[s] the chains” at the District’s football games. The type of volunteering that you described in your request does not appear to raise the same concerns as those reflected in the public advisory opinions you cited. The Commission views your volunteer role as an official “working the chains” as passive, because you are not in a supervisory or leadership role over District personnel or students, nor would you issue widespread direction to/from staff, students or other Board members.

Finally, for your own precaution, the Commission further advises that before you begin volunteering at the District’s football games, in your “limited” role of “working the chains,” you should advise the Superintendent and relevant staff that you will be performing this work and, when doing so, you will be there in your capacity as a volunteer, not as a Board member. This notification to the Superintendent and relevant staff will avoid any confusion when you are present on school grounds to perform volunteer work. 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 Board, and to periodically re-evaluate the existence of potential conflicts. In addition, the only way for a public 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