



State of New Jersey

DEPARTMENT OF EDUCATION
CN 500
TRENTON NJ 08625-0500

Advice permitting a Board member, whose spouse is a teacher's aide, to serve on the Negotiating Committee has been superseded by A25-14; consequently, that part of A55-95 Advisory Opinion is no longer considered valid guidance.

FOR PUBLIC RELEASE

RE: Advisory Opinion A55-95

You have asked which members of the Board of Education, if any, may be a part of the three member negotiating committee that will negotiate a new contract with the local bargaining unit of the N.J.E.A. According to the information you have provided, there are nine members of the Board of Education. Five members, or their spouses (you provided no breakdown), are members of the N.J.E.A. One member's spouse is employed by the school district as a teaching aide. The three remaining members of the Board have no affiliation with the school district, N.J.E.A. or local bargaining unit, but their terms on the Board all expire prior to the entry date for the new contract. Therefore, all three may not be Board members for the entire negotiating process.

For the following reasons, you are advised that only the three members of the Board of Education who are not themselves, and whose immediate family members are not members of the N.J.E.A. or the local bargaining unit, and whose family members are not employed by the school district may become members of the negotiating committee, as the remaining members are conflicted and may not participate directly in the negotiations. The primary basis for this opinion is Advisory Opinion A10-93, a copy of which is attached to this opinion for your reference.

In A10-93, we determined that a board of education member may not participate in negotiations on a collective bargaining agreement when the board member or a member of his immediate family is a member of the same statewide general union, but not a member of the particular bargaining unit with which the school board is negotiating. The basis for the opinion is set forth therein and will not be repeated herein.

Based on A10-93, we have determined that the five members of the Board of Education who are themselves members of the N.J.E.A., or who have spouses who are members of the N.J.E.A., may not participate directly in negotiating a collective bargaining agreement with a local unit of the N.J.E.A. That is the exact question answered by A10-93, and the Commission's opinion remains the same.

One member of the Board of Education's spouse is employed as a teacher's aide in the district, but is not a member of the local bargaining unit. Based on A10-93 and

N.J.S.A. 18A:12-24(c), we have determined that this board member may not participate directly in negotiations of a collective bargaining agreement if his spouse's salary is determined based on the salaries provided to teachers in the district. Regardless of whether the board member's spouse is a member of the local bargaining unit, if her compensation will be affected by the outcome of the negotiations, the board member would violate N.J.S.A. 18A:12-24(c) if he participates in the contract negotiations. N.J.S.A. 18A:12-24(c) 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 or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment;

Clearly, there would be a financial and personal involvement here that could reasonably be expected to impair this board member's judgment if his spouse's salary is tied to that received by teachers in the district. Therefore, this board member may not participate directly in negotiations of the contract if his spouse's salary is tied to that received by teachers in the district.

Based on the foregoing, you are advised that only the three members of the Board of Education who, along with their immediate family, are not members of the N.J.E.A. or local bargaining unit, and have no other apparent conflict, plus the member whose spouse is a teacher's aide, if her salary is not determined based on the salaries provided to teachers, may become members of the negotiating committee and directly participate in negotiations.

Sincerely,



Paul C. Garbarini
Chairman
School Ethics Commission

PCG/ga/a: A5595
Attachment (A10-93)