

November 27, 1996

FOR PUBLIC RELEASE

RE: Advisory Opinion A17-96

At its meeting of November 26, 1996 the School Ethics Commission considered your request for an advisory opinion. You are concerned about your ability to serve as the chief spokesperson for the board of education in its contract negotiations with the local education association.

You have set forth that you have been employed as a superintendent for 14 years. You further state that during that time, you have held the sole responsibility of serving as chief spokesperson for the board at the bargaining talks with the education association. Presently, however, your daughter-in-law is employed by the board and a member of the education association. Your question is whether your relationship precludes or restricts your participation in the negotiation process.

For the following reasons, the Commission concludes that you are restricted in your participation in the negotiation process. As you know, the School Ethics Act, N.J.S.A. 18A:12-21 et seq., provides that:

No school official shall act in his official capacity in any matter in which 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. [N.J.S.A. 18A:12-24c]

In Advisory Opinion A01-93, the Commission interpreted subsection "c" above to preclude a board member from negotiating contracts when his immediate family member is a member of the same local bargaining unit. Recently, in Advisory Opinion A23-94, the Commission extended the prohibition to bar a board member from negotiating when his emancipated children and in-laws are members of the same local bargaining unit. Although the question was asked regarding a board member's conflict of interest, the

Commission finds that the same reasoning applies to a superintendent's ability to negotiate on behalf of the board.

In the School Ethics Act, the term "school official" means a school board member or administrator. N.J.S.A. 18A:12-23. Thus, if a board member is unable to negotiate a contract because his daughter-in-law's salary and benefits will be determined by the outcome of the negotiations, then a superintendent cannot negotiate a contract under the same circumstances. In either case, you could be found in violation of subsection "c."

The Commission believes that you have a personal involvement in the outcome of the negotiations because the outcome directly determines your daughter-in-law's salary and benefits. Thus, you should not continue to negotiate on the board's behalf. In your case, it is reasonable to expect that your objectivity or independence of judgment may be impaired, despite the fact that you have negotiated for the board in the past.

The Commission realizes however, that as a superintendent, you have information that is crucial to the negotiation process. You may provide critical information that the negotiations committee requests or that you feel it is necessary for the committee to have. However, the board will have to find someone else to serve as its chief spokesperson.

We hope this answers your inquiry.

Sincerely,

Paul C. Garbarini
Chairman

I hereby certify that the Commission voted to make the within opinion public at its meeting of November 26, 1996.

Lisa James-Beavers, Executive Director