

November 26, 1997

FOR PUBLIC RELEASE

RE: School Ethics Commission Advisory Opinion A26-97

The School Ethics Commission is in receipt of your request for an advisory opinion forwarded from the Executive Commission on Ethical Standards. The Commission discussed your request at its meeting on November 25, 1997, and rendered this opinion.

You have set forth that you are a Business Administrator/Board Secretary whose salary agreement provides that you will receive a percentage of the settlement offered to the teachers association. Although you have not been directly involved in the negotiations process, you have attended negotiations as a resource for information. For example, you have calculated the cost of various proposals. You are now requesting an advisory opinion on whether serving as a resource in this manner presents a conflict of interest that violates the School Ethics Act.

Your request raises an issue under subsections N.J.S.A. 18A:12-24(c) and (f) of the School Ethics Act. Subsection (c) prohibits school officials from acting in their official capacity in a matter in which they have a personal or financial involvement which might reasonably be expected to impair their objectivity. Because of your contract, you have a financial involvement in the outcome of the negotiations that bars you from negotiating or otherwise giving your opinion as to how the negotiations should proceed. Thus, you may not negotiate as you know. However, your position requires that you make yourself available to the negotiating committee as a resource person to provide objective facts concerning the budget, past contract settlements, and the like. Thus, the Commission advises that your serving as a resource person during negotiations does not violate subsection (c) of the Act.

Subsection (f) prohibits a school official from using his public employment or any information not generally available to members of the public, which he acquires by reason of his employment, for the purpose of securing financial gain for himself. Because your contract provides that you will receive a percentage of the settlement offered to the teachers association, obviously you will be in violation of the Act if you disclose confidential negotiation information to members of the association in order to get the association and thus you, a better deal. Your presence at negotiation sessions only as a resource does not constitute using your employment to secure financial gain for yourself in this contract. Thus, the Commission advises that you may serve as a resource person during negotiations without violating N.J.S.A. 18A:12-24(f) of the School Ethics Act.

For the foregoing reasons, the Commission advises that you would not be in violation of the School Ethics Act by serving as a resource for information in negotiations provided that the information you give is objective and you refrain from subjective comments about the proposed settlement.

The Commission hopes this answers your inquiry.

Sincerely,

Paul C. Garbarini
Chairperson