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School Ethics Commission

March 23, 2021

For Public Release

Subject: Public Advisory Opinion – A03-21

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 meeting on February 23, 2021.

You inform the Commission that you are in the process of establishing a non-profit entity (Non-Profit),” which is a “grassroots, people led, direct-giving group” aimed at helping “families in crisis” with their basic needs. You state, “The work of [the Non-Profit] began at the beginning of the pandemic when schools first shut down in March 2020.” Shortly after, you “collaborated with the counseling staff from the School District [(District)] to help identify families in crisis or in immediate need.” You further state, “The identities of the families are not revealed to [you],” and that the families are identified by a number and the “family demographic (i.e., single parent with 3 children ages ...),” and then the Non-Profit provides the family with a grocery gift card, meals, supplies or directly pays a household bill depending on the need of each family.

You further inform the Commission that individuals donate to the Non-Profit by providing you with gift cards or by sending you money via Venmo or PayPal. You state, in order to hold yourself accountable, donors “are instructed to make their gifts ‘public’ and to include [#the Non-Profit] in the comments.” You further state that, although the Non-Profit has its own Venmo account, it is not yet a 501(c)(3); however, “monetary gifts given through Venmo and PayPal are public and traceable.” You note, when the Non-Profit is established as a 501(c)(3), you will “connect those accounts with a non-profit bank account instead of using [your] personal account.” You further note, the Non-Profit “currently only exist[s] as a private Facebook group and digitally via email newsletters.”

You explain that you have concerns with your involvement with the Non-Profit in certain communities. More specifically, you state that you have refrained from directly helping families within the District because you are “unclear about [your] ethical boundaries as a [Board] member and helping families in [your] [D]istrict when there is a form of financial gift involved”; such as a gift card, which “do not come directly from [you], but they currently pass through [you] and [you are] also the name/face representing [the Non-Profit].”

Based on the information provided in your request, you make the following inquiries:

1. Would the Non-Profit be able to help District families in crisis if their identities are hidden from you? You note that when you work with the District, you get referrals directly from the counseling staff.
2. If you are able to assist District families, what are your limitations, if any?
3. If in some way, you learn the identity of a District family, are you ethically bound not to discuss your involvement with the Non-Profit with the family?
4. In the future, you would like to collaborate with the District PTO to provide supplies, clothes, backpacks etc. What limitations would you have, if any?

Based on the facts and circumstances in your request, and because the Non-Profit does not appear to be under the control of, is not overseen by, and is not otherwise managed by the Board, the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.*, does not prohibit your involvement with the group *per se*. Although you are permitted to be involved with the Non-Profit, the Commission advises that you would violate the Act if you and/or the Non-Profit directly solicited financial contributions, donations, or supplies from District families; provided services to District families; and/or collaborated with the District PTO *while you* are a Board member. In this regard, and because of your status and position on the Board, District families may feel pressure, even if unintended, to contribute to you and/your organization. In addition, although you indicated that you do not necessarily know the identity of families who avail themselves of the Non-Profit’s services, your request also indicated that, in certain circumstances, you could unintentionally become aware of a family’s identity.

Despite its advice, the Commission wishes to commend you for the work that you and the Non-Profit are performing for families in your area. In difficult times, such as these, it is laudable that people can find ways to give back in such meaningful and life-changing ways to their communities and surrounding areas. Although the Commission recognizes that you want to provide these services in the District, the Commission must also be mindful of whether same would implicate the Act and, in its estimation, if you directly solicit financial contributions, donations, or supplies from District families; provide services to District families; and/or collaborate with the District PTO *while you* are a Board member, you would violate the Act.

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 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