



State of New Jersey

DEPARTMENT OF EDUCATION

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Acting Commissioner

School Ethics Commission

March 23, 2021

For Public Release

Subject: Public Advisory Opinion – A04-21

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 were recently elected to the Board and, prior to being elected, you addressed the Board "as a concerned parent," specifically regarding your concerns with "school schedules and the health benefits of delaying start times for [the] middle school and high school." You state, "as you became more involved" with researching health concerns related to school start times, you "discovered a national" non-profit organization (Non-Profit). You note the Non-Profit does "*some* lobbying about legislation, but that is not their primary function and as all non-profit organizations registered with the federal government, they must track their hours." You further state that the Non-Profit is "run entirely by volunteers," including parents, educators, health professionals and doctors and "to your knowledge no one is paid at all in the leadership of the organization." The organization only pays for services such as "web hosting, facilities for events, and other operational costs needed to advocate and inform."

You further inform the Commission that you joined the organization in January 2019 as "a member," which requires you to pay a \$50.00 annual donation that is applied toward the operation of the organization, and entitles you to the organization's online resources. You state you are now the "chapter leader for [your Township] chapter." As chapter leader, you are entitled to "put up a Facebook page" for your chapter, which you state, you post to "infrequently"; you have a listing on the national page, "so local people can connect with you and each other"; and you have access to a private Facebook group designated only for chapter leaders to communicate, share concerns, share resources and support each other. You further state as a chapter leader, you are a volunteer and you have "**never received a penny (nor do**

[you] have any potential to do so) from [the Non-Profit].” You note that your involvement with the organization has allowed you to connect with advocates throughout the State, and you have joined the New Jersey American Academy of Pediatrics (NJAAP) as a parent volunteer. In this capacity, you volunteer your time and meet monthly to discuss “advocating for healthy school hours across the [S]tate.” In summary, you explain that you “have no personal benefit (monetary or otherwise) to being a member and chapter leader of [the Non-Profit] other than support in advocating for a public health matter.”

Based on the information set forth above, you inquire whether you would violate the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.*, if you continue your affiliation with and remain chapter leader for the Non-Profit.

The Commission advises that, based on the facts and circumstances provided in your request, and because the Non-Profit does not appear to be an organization under the control of, overseen by, or otherwise managed by the Board and/or the District, the Act does not *per se* prohibit your involvement in this organization generally, or in a leadership role, as “chapter leader,” specifically. Therefore, there is no current prohibition on your involvement with the Non-Profit. Although you are permitted to be involved with the organization in the capacity that you described, should any matter (or issue) come before the Board that involves the Non-Profit, you should recuse yourself from that matter(s) in order to avoid a violation of the Act. Finally, you should not attempt to provide any information regarding the Non-Profit to the Board, employees of the District, and/or District families.

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