



**State of New Jersey**

DEPARTMENT OF EDUCATION

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*Governor*

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*Acting Commissioner*

April 23, 2014

**FOR PUBLIC RELEASE**

SUBJECT: Advisory Opinion—A06-14

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion on your behalf, regarding you as a member of the Local Board of Education (Board). Pursuant to your request for an advisory opinion and consistent with its authority under N.J.S.A. 18A:12-28(b), the School Ethics Commission discussed this matter at its March 6, 2014 meeting. The Commission will provide its advice based on the information you included in your advisory opinion request. The Commission's authority to issue advisory opinions is expressly limited to determining whether any proposed conduct or activity would constitute a violation of the School Ethics Act. N.J.S.A. 18A:12-31.

You have asked whether it would be a violation of the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq., for you to be involved in the Superintendent's contract and the election of a new Board President since your direct supervisor is also a member of the same Board. You advise that you are a social studies teacher in Regional High School, which receives students from the Local School District. You also mention that your evaluations are conducted by a number of other school officials.

The Commission considered whether your proposed conduct as a Board member would violate N.J.S.A. 18A:12-24(c), which sets forth:

No school official shall act in his official capacity in any matter where he...has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he...has a personal involvement that is or creates some benefit to the school official or member....

In its review of your inquiry and the set of facts you articulated, the Commission finds no obstacle at present to your performing your duties as a Board member. Currently, the Commission does not perceive a benefit that would inure to you or to the other Board member, who is your supervisor through the exercise of your office.

The Commission is mindful, however, of the overarching purpose of the Act and often reads potential violations in conjunction with N.J.S.A. 18A:12-22(a), which provides:

In our representative form of government, it is essential that the conduct of members of local boards of education and local school administrators hold the respect and confidence of the people. These board members and administrators must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

In the future, should the facts change where, in order for you to protect your employment or to guarantee your successful evaluation, you may sacrifice or be asked to sacrifice your independence of judgment and objectivity, the result may be different. Such a challenge may give rise to a violation of N.J.S.A. 18A:12-24(c), resulting in a loss of the public trust. At this moment, you have alleged no such challenge.

For the foregoing reasons, the Commission finds that you would not violate the Act if you were to be involved the Superintendent's contract and the election of a new Board President or any other Board action, which may come before you. However, the Commission cautions that should the situation change, you may have to abstain from such involvement.

We hope this answers your inquiry.

Sincerely,

Robert W. Bender, Chairperson