



State of New Jersey

DEPARTMENT OF EDUCATION

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Acting Commissioner

April 23, 2014

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A08-14

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). 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. Pursuant to your request for an advisory opinion and consistent with its authority under N.J.S.A. 18A:12-28(b), the Commission discussed this matter at its March 6, 2014 meeting. The Commission bases its advice on the facts included in your request.

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 as a Board member to participate in the interview and selection process for a new Chief School Administrator (CSA) when a stepdaughter, stepdaughter-in-law, and nephew are employed in the District as certified teachers. You also advise that these family members are not dependent upon you in any way.

Since each of them is not considered a "relative" within the meaning of the Act, the Commission determined that your inquiry turned on the application of N.J.S.A. 18A:12-24 (b), which provides:

No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others.

In this instance, these members of your family are considered an "other" within the meaning of this subsection, and as such, the public may view your action as an attempt to secure unwarranted privileges or advantages for them in violation of the public trust. In light of your familial relationship with your stepdaughter, stepdaughter-in-law, and nephew, the Commission has determined that you may not be involved or present for the Board's negotiation since doing so would violate N.J.S.A. 18A:12-24(b). Moreover, such participation in employment discussions involving the CSA may also create a justifiable perception that the public trust has

been violated because the CSA evaluates and makes recommendations about the these family members' continued employment. The Commission determined the you would be in violation of the Act and foster the perception that the public trust has been violated as some direct or indirect benefit may inure to them from your official action as a Board member.

Therefore, the Commission finds that the Board member would violate N.J.S.A. 18A:12-24(b) if he were to participate in the interview and selection process for a new CSA when a stepdaughter, stepdaughter-in-law, and nephew are employed in the District as certified teachers.

We hope this answers your inquiry.

Sincerely,

Robert W. Bender, Chairperson