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July 31, 2013

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A11-13

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion, filed on your own behalf. You have set forth that you are a board member of the Local Board of Education (Board), which entered into a joint services agreement with the Regional School District prior to the start of this school year. The two districts currently share a superintendent. You have stated that you are presently seeking employment in the Regional School District. You have specifically requested advice on what steps you should take to avoid a violation of the School Ethics Act (Act). N.J.S.A. 18A:12-21 *et seq.* At its June 25, 2013 meeting, the Commission determined, pursuant to its authority under N.J.S.A. 18A:12-28(b), that it would be a violation for you to be employed by a school district which shares services or a superintendent with the Board of Education of which you are a member.

In reviewing this matter at its meeting on June 25, 2013, the Commission has determined that this matter turns on the applicability of N.J.S.A. 18A:12-24(c) of the School Ethics Act. That provision states:

No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, 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 or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family;

In applying the standard of what “might reasonably be expected to impair objectivity,” the Commission must determine whether the public might reasonably perceive that the Board member’s objectivity is impaired by his employment in the school district which shares resources and personnel with the same school Board on which you are a member. The two positions are inexorably linked and raise the inevitable specter of a conflict of interest. The public could reasonably expect or perceive that a board member would have a great interest in his own well being that would conflict with his duty to the board. Moreover, since you have not articulated

the precise services the districts share, there is an increased potential for additional violations of the Act to occur in ways the Commission cannot predict or specifically address at this time.

Therefore, the Commission advises that should your search for employment with the Regional School District be successful, you must relinquish your Board seat on the Local Board of Education as you cannot retain both without violating N.J.S.A. 18A:12-24(c) and without calling into question your ability to maintain your objectivity or independence of judgment. Additionally, the Commission has determined that there are no precautions adequate enough to protect the public trust and confidence in the both Boards and in their members.

We trust that this opinion answers your inquiry.

Sincerely,

Robert W. Bender, Chairperson