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School Ethics Commission

May 25, 2021

For Public Release

Subject: Public Advisory Opinion – A13-21

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), this matter was discussed at the Commission's Advisory Opinion Committee meeting on May 12, 2021.

In your request, you inform the Commission that you "are being considered for a new job by [your] current employer." In this position as a "public-facing community liaison," you would "forg[e] strong links between the [e]mployer and **local schools**, businesses and non-governmental organizations," as well as:

- "Represent the [e]mployer's interests in the community, especially outside of governmental and regulatory venues, and foster mutual understanding and positive interactions between the [e]mployer and the community";
- "Identify community issues and organizations to which [e]mployer should direct time and resources";
- "Work with colleagues to create and carry out a coherent, broad-gauged and long-term strategy through which [e]mployer can be a connected, omitted and contributing member of the community and enhance its quality of life";
- "Identify meaningful ways for the community and [e]mployer to interact, maintain relationships with leaders of key community organizations and agencies, and foster good relationships";
- "Provide timely information to community members and organizations about the [e]mployer"; and
- "Develop strategies, methods and incentives that encourage members of the community to be aware of the opportunities provided to them by [e]mployer and to be active participants in [e]mployer programs and activities available to them."

With the above in mind, you seek to determine, whether your "proposed new job responsibilities" would create a conflict for you and whether your "recusal from conversations

on both sides about monetary contributions to the public schools would be sufficient to avoid any potential conflicts.”

First, the Commission advises that, based on the facts and circumstances set forth in your request, your “proposed new job responsibilities” are not a *per se* conflict of interest under the Act. Stated differently, your potential role as “public-facing community liaison” does not appear to be in substantial conflict with the proper discharge of your duties in the public interest.

Second, should you accept this new position with your current employer, as a “public-facing liaison,” the Commission advises that you would, in your capacity as a Board member, need to recuse yourself from any and all discussions and votes concerning your employer and/or any and all discussions and votes concerning any financial assistance and/or services that your employer could potentially provide to the Public School (District). This prohibition would apply for as long as you are employed by your current employer. In addition, this prohibition would apply to any and all discussions and votes concerning competing entities that offer the same (or similar) financial assistance and/or services as your employer.

Next, should the Board procure financial assistance and/or services through/from your employer, you are prohibited from serving as your employer’s representative in the District. Stated differently, you cannot represent your employer, in any way, within the District. In the same vein, if you represent your employer to provide financial assistance and/or services in other school districts, you are prohibited from utilizing or otherwise relying on your Board membership as a basis to promote your employer’s financial assistance and/or services to other school districts.

Furthermore, and in your capacity as an employee, you should not be involved in any discussions or decisions, which could possibly relate to, or otherwise involve, the provision of financial assistance and/or services to the District.

Finally, 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