



State of New Jersey

DEPARTMENT OF EDUCATION

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Acting Commissioner

April 23, 2014

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A16-14

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 and consistent with its authority under N.J.S.A. 18A:12-28(b), the Commission discussed this matter at its March 25, 2014 meeting. Please be advised that the request cannot be accepted because it does not meet the requirements set forth in N.J.A.C. 6A:28-5.2.

The Commission has issued a number of public advisories addressing the issue of a board member's participation in employment decisions for the Superintendent and other administrators. Those public advisories can be found at: <http://www.nj.gov/education/legal/>. You will note that where the Commission circumscribes a board member's participation, it does so based on familial connections within the District. The ruling in Martinez v. Albolino , Hackensack Board of Education, Bergen County, Docket No. C45-11, June 26, 2012 is just the most recent declaration of the Commission's application of that position. If you will notice on the Commission's website, each of the prior advisories you mentioned in your request are flagged as no longer good advice to the extent each conflicts with the Martinez ruling. A10-00 has been removed completely.

While your participation in the selection, pre-hiring process and post employment discussions regarding the Superintendent is prohibited because of your conflict, you still retain some rights. Although you cannot function as a Board member, you are still a member of the public. As such, you may attend the public session since there is no risk that confidential information will be shared with the public nor inquired of any Board member at that time.

The Commission is mindful, however, that the purpose of the School Ethics Act, N.J.S.A. 18A:12-21 et seq., is intended to preserve and protect the public trust. It is essential that all Board members, even as members of the public, maintain the respect and confidence of the people they serve.

We hope this answers your inquiry.

Sincerely,

Robert W. Bender, Chairperson