



State of New Jersey

DEPARTMENT OF EDUCATION

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Acting Commissioner

April 25, 2018

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A15-18

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion on behalf of the Board of Education (Board). You verified that you copied the Board member who is the subject of your request, thus complying with N.J.A.C. 6A:28-5.2(b). The Commission notes that the Board member did not submit comments and, therefore, the Commission will provide its advice based solely on the information included in your request. 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), the Commission discussed this matter at its meeting on March 27, 2018.

You inform the Commission that a Board member is "a very active member of the School District's (District) parent community," and was recently elected to the Board. You also inform the Commission that the Board and the local education association (Association) have engaged in long and difficult negotiations over the past two (2) negotiations cycles, continuing to the present. You note that, prior to and during this Board member's campaign for a seat on the Board in 2017, she was an active supporter of the Association and participated in several activities to demonstrate support for the Association. However, this Board member was not formally endorsed by the Association.

You further inform the Commission that this Board member has held, and continues to hold, various positions within the Parent Teacher Association (PTA) that are not affiliated with or overseen by the Board, and which cause her to have contact with District administration and staff. According to your request, the mission of the PTA is to work cooperatively with the District to benefit the students. In this regard, you state that the PTA is "dedicated to promoting children's health, well-being and educational success through strong parent, family and community involvement" and "sponsors many activities and events for the students of the District." The PTA sponsored positions currently held by this Board member are summarized as follows:

"President of the PTA": Oversees all aspects of the PTA, sets the agenda for and presides over the monthly PTA meetings in each building, which are attended by parent volunteers, some teachers and the building Principal.

The President can also be the coordinator of particular events if she volunteers for same.

“District Communication Committee (DCC)”¹: At the monthly PTA meetings in each school, the Vice-President reports on the business of the DCC, which is a building-based committee that meets with the Principal, parent representatives and staff representatives to discuss a wide variety of issues pertinent to the school. The committee works collaboratively to review ideas generated by the team for discussion and possible action, propose solutions to problems identified by members of the team and, in general, act as a liaison to the school community and staff. Should the Vice-President be unable to attend a meeting the President would attend in his/her place.

“Homeroom Parent”: Responsible for organizing the various events/parties that will take place in her child’s homeroom. This involves enlisting parents to provide the various supplies needed and engaging in possible interaction with teachers and/or main office staff when delivering the supplies to the designated room in the school.

“Homeroom Parent Coordinator”: Oversees the coordination of all the grade level Homeroom Parents in the school and communicates and interacts with the Homeroom Parents, teachers, secretaries and Principal in the building.

“Coordinator of Family Movie Night”: Secures approval from the building Principal and Superintendent for use of the school chosen to host the event, chooses the movie to view and seeks approval of that choice from the Principal, creates promotional flyers which need to be submitted to the Principal for review and approval, sets up refreshments provided, organizes other parent and teacher volunteers and generally monitors the event to make sure everything runs smoothly.

“Coordinator of Field Day”: Involves communication with Principals and teachers, including requests to borrow equipment from a Physical Education teacher, organizes and monitors the event, along with other parent volunteers, and could involve asking teachers to address any issues that might arise between students.

Your inquiry seeks to determine whether this Board member may continue to serve in the various PTA sponsored positions described above while simultaneously serving as a Board member, without violating the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. More specifically, you inquire whether this Board member:

¹ This Board member was a member of the DCC in one school; however, she stepped down from that committee after being sworn in as a Board member.

- (1) May continue to serve in all aspects as the President of the PTA, including substituting for the Vice-President at DCC meetings when the Vice-President is not available. If not, may this Board member serve in any other of the executive Board positions? And, if so, what restrictions, if any, would apply?
- (2) May continue to serve in the role of homeroom parent?
- (3) May continue to serve in the role of homeroom coordinator?
- (4) May continue to serve in the role of coordinator of various PTA events, such as Movie Night and Field Day?
- (5) Is precluded from serving on the negotiations committee or otherwise restricted from participating in negotiations or personnel matters that come before the Board based on the information presented above.

In your request, you cite several public advisory opinions relating to your inquiry, but note that “further clarification is necessary.” Specifically, you cite Advisory Opinion A07-00 (A07-00), Advisory Opinion A32-14 (A32-14), Advisory Opinion A10-15 (A10-15) and Advisory Opinion A17-15 (A17-15).

As an initial matter, the Commission notes that serving on the Board does not preclude a Board member from also serving as a parent to his/her child. Therefore, and *generally* speaking, Board members are able to volunteer for activities that support their children within the District without violating the Act. However, as further detailed below, Board members should refrain from certain activities in order to avoid running afoul of the Act.

The public advisory opinions cited in your request, namely A17-15, A10-15, A32-14, and A07-00, generally turned on the *degree of involvement* a Board member had with staff and students, as well as the degree to which the Board member had *authority* to give and receive directions and orders to staff during the involved volunteer activity. In these previously issued public advisory opinions, the Commission advised that where the Board member was in a supervisory position and generally oversaw staff or students, such interaction would be inconsistent with the Act.

In its review of the circumstances described in your request for an advisory opinion, and after considering its previously issued advice, the Commission advises, based only upon the facts presented in your request that this Board member may continue to serve in the various PTA positions described above. The type of volunteering that you described in your request does not appear to raise the same concerns as those reflected in the public advisory opinions you cited. The Commission views this Board member’s role as Homeroom Parent as passive because, as a Homeroom Parent, she is not in a leadership role over a District sponsored committee or group (see A10-15), and she does not issue widespread direction to/from staff, students or other Board members (see A32-14). Additionally, this Board member’s roles as Homeroom Parent Coordinator, Coordinator of Movie Night, and Coordinator of Field Day seem to be equally passive. Indeed, the information provided makes it clear that this Board member, and other PTA members, defer to the Principal and/or teaching staff as they help support the activity for which they are volunteering. As for this Board member’s role as PTA President and substitute member of the DCC, the Commission also views these roles as not being subject to a widespread level of direction from staff, students or other Board members. As for whether this Board member may

serve in “any other of the [PTA] executive Board positions” and whether any restrictions would apply, the Commission finds that serving in these roles/capacities would not be problematic based upon the information in your request. Therefore, absent additional information, the Commission advises that this Board member is not prohibited from serving in any other executive officer position of the PTA and the same restrictions that are described for her role as PTA President (if any) would also apply to any other executive officer position.

The next issue is whether this Board member is precluded from serving on the negotiations committee or otherwise restricted from participating in negotiations or personnel matters simply because the Association supported her candidacy, and she expressed support for, and actively supported, the Association. In this regard, the Commission advises that under the facts presented, this Board member *does not* have a conflict and, therefore, she may serve on the negotiations committee without restrictions. The Commission observes that legitimate political activity, as stated in the case of this Board member, without more, does not violate the Act.

Finally, as a precaution, the Commission advises that as this Board member continues volunteering in the District through her various PTA roles, she should advise the Superintendent and relevant staff that she will be performing this work and, when doing so, she will be there in her capacity as a volunteer and parent, not as a Board member. This notification to the Superintendent and relevant staff will avoid any confusion when she is present on school grounds to perform volunteer work. As a Board member, the subject of your request must always be cognizant that the obligations of the Act follow her in all activities in which she engages, be it homeroom parent, homeroom parent coordinator, or coordinator of movie night and field day. A violation of the Act may occur in any given scenario (ex: divulging of Executive Session matters or taking action to investigate or resolve a complaint about the schools without/before referring such complaint to the Superintendent), and this Board member, like any other Board member, must be mindful of this fact when engaging in any activity.

Sincerely,

Robert W. Bender, Chairperson
School Ethics Commission