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DEPARTMENT OF EDUCATION
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DAVID C. HESPE
Commissioner

March 25, 2015

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A42-14

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion on behalf of a member of the Local School District Board of Education (Board). You have verified that you copied the Board member who is the subject of the 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 proposed 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 February 24, 2015 meeting.

You state that a Board member owns a company that has a long-standing business relationship with the Local School District (District). There is no contract between the District and the business. Moreover, you state that the District purchases various supplies in individual transactions when "needed quickly or on an emergent basis." You assert that the Board purchases approximately \$3,000 to \$3,500 worth of merchandise from the business each year. Presently, the Board member recuses himself from any discussions and/or voting that in any way relates to his business. 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 the business relationship between the Board member's company and the District to continue while the Board member serves on the Board.

The Commission finds that this matter implicates N.J.S.A. 18A:12-24(c) of the Act, which provides:

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.

It is undisputed that the Board member has a direct financial involvement in the company which does business with the Board. Due to this, it is reasonable for the public to perceive that the Board members' interest is in the success of his business and is paramount to his interest as a Board member, impairing his independence of judgment.

Each transaction represents a benefit to the Board member, regardless of the value of funds spent on each individual transaction with the business or the sum amount per year. Therefore, to avoid a violation of N.J.S.A. 18A:12-24(c), the Commission advises that because there is no preexisting contract and his business relationship with the District amounts to multiple, individual transactions over the course of the year, it is inappropriate for the District to continue this business relationship while the owner of the business is a member of the Board. The Act is best served if the District purchased its various supplies from other companies, and avoids using the services of the Board member's company.

Sincerely,

Robert W. Bender, Chairperson
School Ethics Commission