



State of New Jersey

DEPARTMENT OF EDUCATION

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October 27, 2015

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A17-15

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion on your own behalf as a member of the Board of Education (Board). The Commission will provide its advice based solely on the information included in your request, and its 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 September 22, 2015 meeting.

You inform the Commission that you volunteer in two capacities with the District, and inquire if you may do so without violating the School Ethics Act (Act). N.J.S.A. 18A:12-21 *et seq.* The Commission summarizes your volunteering, as it understands from the facts you presented, as follows:

High School musical/play volunteering: You state that you volunteer to construct sets for the musicals/plays. You state this “typically” involves your being on the stage during rehearsal approximately five nights a week for two to three hours over the course of a three week period. You state that during this time your interaction with staff and students is “limited to ensuring the sets and props meet their vision,” and that during performances you are “on hand to repair any prop that may need it.”

Marching band volunteering: You state that you are a volunteer for the marching band to build props and repair equipment, load and unload equipment and instruments on the trucks, and move equipment on and off the field during football games and competitions. You claim that your interaction with staff and students is very limited. You state that you receive direction, presumably from a member of the staff or another volunteer, on what props are needed for the year and you verify that all equipment is accounted for each time the truck is loaded and unloaded.

In its analysis, the Commission first refers to previously issued public advisory opinions which examined the issue of Board members who volunteer in the District for which they are on the Board: A32-14 and A10-15. In each of these previous advisory opinions, the Commission was concerned with the degree of involvement a Board member had with staff and students and the degree to which s/he gave and received directions and orders from staff during the volunteer activity. In these previous opinions, the Commission advised that such interaction would be inconsistent with the Act and would violate N.J.S.A. 18A:12-24.1(c) and (d) where the Board member was in a position to generally oversee staff or students, and/or be subordinate to or have oversight of staff.

The Commission does not consider there to be a general prohibition on Board members volunteering in activities within the District they oversee. It recognizes that you, as a member of the Board, are already contributing your valuable time, skill and effort to the community you serve. This service, in itself, is among the most important kind of volunteerism in which an individual can engage.

In its review of the circumstances you described in your request, the Commission has determined that, based only upon the facts presented, the two examples of volunteering you perform do not appear to raise the same concerns as those reflected in the prior advisories. The Commission determines that your volunteering appears to be passive as you are not in a leadership role over a committee or group (A10-15) nor are you subjected to widespread level of direction from staff, students, other Board members or spouse. (See A32-14) The instruction you receive appears to be limited to that necessary for the successful completion of the musical/play or marching band rehearsal/performance. Moreover, without additional facts to the contrary, the Commission does not view intermittent, non-executive volunteer activities constructing and maintaining props for musicals/plays or unloading and uploading band equipment for the marching band to be inherently contradictory to the duties placed on Board members by the Act.

Board members must always be cognizant that the obligations of the Act follow them in all activities in which they engage, be it chaperoning a school trip, constructing props for a play or engaging with the public at the supermarket. A violation of the Act may occur in any given scenario (ex: divulging of Executive Session matters). The Commission, in rendering this advice, views the volunteering, as described in your advisory opinion request, as not in violation of the Act.

Sincerely,

Robert W. Bender, Chairperson
School Ethics Commission