

April 2, 1998

FOR PUBLIC RELEASE

RE: Advisory Opinion A04-98

You have requested an opinion on whether you may ask the Superintendent of your school system for a letter of recommendation. You are presently the President of the Board of Education in your school district. You are seeking a position as an adjunct professor in several local colleges.

The School Ethics Act, specifically N.J.S.A. 18A:12-24(b), prohibits a board member from using his official position to secure unwarranted privileges, advantages or employment for himself. The Commission opines that you would not be using your official position to secure unwarranted privileges, advantages or employment for yourself in violation of the Act by asking the superintendent for a recommendation. However, since you are the Superintendent's employer, this appears to be an unusual situation. In most instances, the employer recommends an employee. In a situation such as yours, an employee may not feel free to refuse the request or be completely candid on the recommendation. Nevertheless, the Commission bases its opinion that you would not be in violation solely on the facts you have presented. The Commission does not express an opinion on whether you would violate the Act if the facts indicated that you applied any pressure on the superintendent or in any way used your leverage as a board member to get the recommendation.

You should also note that the Commission does not encourage board members to ask personal favors of the superintendent or any other employee. Such favors could result in a later finding that the board member cannot be expected to be objective when a matter concerning that superintendent or employee comes before the Board. If such a finding were made, the board member would have to abstain from issues involving that employee or risk violating N.J.S.A. 18A:12-24(c). The Commission is not expressing an opinion on whether future actions taken by you regarding the superintendent may violate the Act as such facts and circumstances are not before the Commission. At this time, the Commission is only raising the possibility for your consideration.

Thus, the Commission opines that you would not violate the School Ethics Act by requesting a recommendation from the superintendent. However, for other reasons, you may wish to reconsider doing so.

Sincerely,

Paul C. Garbarini
Chairperson

I hereby certify that the School Ethics
Commission voted to make this advisory
opinion public at its meeting on April 28, 1998.

Lisa James-Beavers
Executive Director

PCG/ljb/decisions/A0498