



State of New Jersey

DEPARTMENT OF EDUCATION

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Acting Commissioner

April 23, 2014

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A07-14

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion, regarding a member of the Local Board of Education (Board). Pursuant to your request for an advisory opinion 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. Initially, the Commission notes that you properly verified that the Board member whose conduct is the subject of the advisory opinion request was copied on the request, thus complying with N.J.A.C. 6A:28-5.2(b). Because the Board member did not submit comments, the Commission bases its advice on the facts 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.

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 a Board member to be appointed to the Negotiations Committee in her home District, participate in the collective bargaining agreement negotiations and vote on the agreement. You have stated that this Board member is employed as a secretary in another District, which has a contract with an NJEA affiliate. Though the Board member is not a member of the secretarial union, she does pay a representation fee to the NJEA affiliate. Moreover, the Board of Education in the District for which she works is party to a single collective bargaining agreement that includes teachers, secretarial, custodial and another support staffs.

At its meeting on March 25, 2013, pursuant to its authority in N.J.S.A. 18A:12-28(b), the Commission advised that given the nexus between the NJEA affiliate in the District in which the member is employed and the NJEA in the District in which she sits as a Board member, that she would violate N.J.S.A. 18A:12-24(c) if she were allowed to negotiate or participate in discussions regarding collective bargaining agreements. Moreover, because her secretarial unit is covered under the single collective bargaining agreement where she works, the Board member reaps the benefits of the NJEA contract.

Your inquiry turns on the application of N.J.S.A. 18A:12-24(c), 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;

On the facts that you have provided, the Commission found that it would be impossible to avoid a violation of N.J.S.A. 18A:12-24(c), as there may be other latent financial connections between the two unions. If any benefit by way of salary, schedules, insurance package or other emolument to the Board member's benefit as a secretary, then a link or an indirect financial involvement would exist. Such a link would create a conflict, which would prohibit a Board member from engaging in all negotiations or discussions regarding its members. Moreover, should the Board member have a hand in negotiating those benefits that ultimately redound to her, a violation is certain to be found, which would compromise the public trust.

Therefore, the Commission finds that the Board member would violate N.J.S.A. 18A:12-24(c) if she were to negotiate collective bargaining agreement where she sits as a Board member.

We hope this answers your inquiry.

Sincerely,

Robert W. Bender, Chairperson