



State of New Jersey

DEPARTMENT OF EDUCATION

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Governor

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Commissioner

June 21, 2016

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A15-16

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion on behalf of a member of the 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 this 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 May 24, 2016 meeting.

You inform the Commission that a fellow Board member's spouse is employed by the District; however, the Board member and the spouse will soon be divorced. You ask if the Board member would continue to have a conflict in his Board activities due to his ex-wife's employment in the District.

First, the Commission advises that divorce does not remove all possible conflicts under the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq. Second, as to the specific request, the divorce in question is pending a final divorce agreement and decree. The nature of that agreement will be instructive on the nature of the continuing conflict for the Board member. The extent of the conflict depends on the terms of the divorce and any extant linkages between the Board member and the would-be ex-spouse, such as alimony, child support, etc.

The would-be ex-spouse would no longer be a member of the Board member's "immediate family" but would be an "other" under subsection N.J.S.A. 18A:24(b), which states:

No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others;

Therefore, the Board member must not engage in any Board activity in which he uses his official position to extend to his ex-spouse any unwarranted privilege or advantage. The Commission advises the Board member to exercise caution and be reasonable in evaluating his conflict and in how he limits his participation in Board activities which may violate N.J.S.A. 18A:24(b) and/or violate the public trust. The Commission reminds the Board member of the Legislative intent of the Act, as stated in N.J.S.A. 18A:12-22:

The Legislature finds and declares:

- a. In our representative form of government it is essential that the conduct of members of local boards of education and local school administrators hold the respect and confidence of the people. **These board members and administrators must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.**

Sincerely,

Robert W. Bender, Chairperson
School Ethics Commission

cc: Board Counsel