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DEPARTMENT OF EDUCATION
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CHRISTOPHER D. CERF
Commissioner

July 31, 2013

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A12-13

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion, filed on your own behalf. You have set forth that you are a board member of the Local Board of Education (Board) and have been advised by the Board attorney that you must recuse yourself from all discussion involving the Government Authority. You have specifically requested clarification on the attorney's advice and what steps you should take to avoid a violation of the School Ethics Act (Act). N.J.S.A. 18A:12-21 *et seq.* At its June 25, 2013 meeting, the Commission determined, pursuant to its authority under N.J.S.A. 18A:12-28(b), that your involvement in such Board activity has the potential to violate the Act and would raise the public perception that a conflict exists thus violating its trust.

In reviewing this matter, the Commission has determined that this matter turns on the applicability of N.J.S.A. 18A:12-24(c) of the School Ethics Act. That provision states:

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;

In applying the standard of what "might reasonably be expected to impair objectivity," the Commission must determine whether the public might reasonably perceive that your objectivity is impaired by your spouse's employment with the Government Authority should an issue involving the Commissioner come before your Board. You explain that you once served on the Board along with the now Commissioner of the Government Authority and that your spouse works for the Government Authority, presumably under the supervision of this Commissioner. Considering that both you and your spouse have had and still have some relationship with the Commissioner and that your spouse may be directly or tangentially supervised by the Commissioner, the public could reasonably expect or perceive that you, as a Board member,

would have an interest in your spouse's well being that might reasonably be expected to impair your objectivity or independence of judgment.

Therefore, the Commission advises that your involvement in discussions and voting on matters relative to the Commissioner of the Government Authority may be perceived by the public as a violation N.J.S.A. 18A:12-24(c) and would call into question your ability to maintain your objectivity or independence of judgment. Additionally, the Commission has determined that there are no precautions adequate enough to protect the public trust and confidence save your recusal from such Board activity.

We trust that this opinion answers your inquiry.

Sincerely,

Robert W. Bender, Chairperson