



State of New Jersey  
DEPARTMENT OF EDUCATION  
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*Governor*

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DAVID C. HESPE  
*Acting Commissioner*

August 27, 2014

**FOR PUBLIC RELEASE**

SUBJECT: Advisory Opinion—A33-14

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion on your behalf, regarding your employment by an educational resource company (Publisher), which sells workbooks to the Local School District (District) for its vocabulary program. 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 July 22, 2014 meeting. The Commission will provide its advice based on the information you included in your advisory opinion 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 explain that in your position as the Director of Product Management in the marketing department for technology and mathematics products, you are a salaried employee and do not have an interest in Publisher. Moreover, you state that you are not responsible for sales and have no presale contact with any customer. You do, however, assist sales representatives with marketing strategies and campaigns and provide professional development for customers in the use of product and programs in your area of technology and mathematics only. You inquire whether your employment with a vendor for the District would prohibit your participation in Board actions including pre- and post-hire employment issues regarding the Superintendent, Principal, Supervisor of Curriculum/Instruction or any other administrative position in the District under the School Ethics Act (Act). N.J.S.A. 18A:12-21 et seq.

Your inquiry implicates N.J.S.A. 18A:12-24(b), (c), and (d) which provide, respectively:

- b. 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;
- c. 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;

d. No school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties;

Each of these subsections envisions a school official who uses his position or undertakes an action to create some benefit for himself, whether directly or indirectly, which might reasonably expect to compromise his independence of judgment or impair his objectivity in the exercise of his official duties. Since you have indicated that Publisher's relationship with the Board predates your becoming a Board member, that you are not involved in the section of your company which provides vocabulary workbooks to the District, and that you are not responsible for the pre- or post-sale contact with consumers, the Commission has determined that your employment would not interfere with your ability to conduct Board business and, therefore, would not violate the Act. If, however, should some benefit accrue to you from your company for this contract, you must refrain from participating in Board actions including pre- and post-hire employment issues regarding the Superintendent, Principal, Supervisor of Curriculum/Instruction or any other administrative position in the District.

Moreover, the Commission is mindful that your independence of judgment and objectivity remain unquestioned. In this regard, you must continue to recuse yourself from any discussion, contract negotiations, purchase from or payment to Publisher as a member of the Board.

Sincerely,

Robert W. Bender, Chairperson