

May 23, 2000

FOR PUBLIC RELEASE

RE: Advisory Opinion A07-00

The School Ethics Commission is in receipt of your request for an advisory opinion on behalf of your Board. You have requested an opinion as to whether a board member may simultaneously serve as President of the local Parent Teachers' Association (PTA) in the same district. The Commission now advises that the Board member may serve as President of the PTA, but cautions that she must avoid conduct that may result in a violation of N.J.S.A. 18A:12-24(g), (c) or (f).

You have provided that the President of the PTA was recently elected to the district Board of Education. The PTA provides support, both financially and otherwise, to the students of the district. It raises money to buy equipment, fund trips and hold special events for the students. The National PTA states that its mission is

To support and speak on behalf of children and youth in the schools, in the community and before governmental bodies and other organizations that make decisions affecting children;

To assist parents in developing the skills they need to raise and protect their children; and

To encourage parent and public involvement in the schools.

You have asked three questions. First, "Does the situation create a conflict of interest for the Board member?" Second, "Can the Board member hold both the Board's seat and an executive officer position with the local PTA simultaneously?" And third, "Does the retention of both positions violate N.J.S.A. 18A:12-24(d)?"

The Commission will address the third question first. N.J.S.A. 18A:12-24(d) is the applicable provision to determine whether the positions are inherently in conflict. This subsection prohibits a school official from undertaking any employment or service,

whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his or her official duties.

The Commission does not find these positions to be inherently in conflict such that the Board member's service to the PTA might reasonably be expected to prejudice his independence of judgment in the exercise of his or her official duties. The Commission finds the positions to be compatible, rather than in conflict. The mission of the PTA is to work cooperatively with the school district to benefit the students.

The Commission recognizes that board members may have fiscal concerns that limit their ability to provide certain services to students that the PTA may wish to provide. However, the Commission does not believe that this is the type of conflict that creates an impression that the public trust is being violated as set forth in the Legislature's statement of purpose at N.J.S.A. 18A:12-22(b). Other than the constraints on the Board member's time from serving in both capacities, her official duties on the Board should not be impaired.

The Commission finds that this analysis answers the second question as well. The Commission does not find that the Board member has to give up her position as an executive officer of the PTA in order to be an effective and independent board member. However, since the mission of the National PTA includes speaking on behalf of the PTA to governmental bodies that make decisions affecting students, the Commission notes that N.J.S.A. 18A:12-24(g) provides:

No school official...shall represent any person or party other than the school board or school district in connection with any cause, proceeding, application or other matter pending before the district in which he serves or in any proceeding involving the school district in which he serves... . This provision shall not be deemed to prohibit representation within the context of official labor union or similar representational responsibilities.

Therefore, the Board member would violate N.J.S.A. 18A:12-24(g) if she were to appear before the Board in connection with any cause or other matter in which the PTA may be advocating a position.

The next issue is whether holding the two positions creates a conflict of interest for the Board member in any other way. Although the Commission has already stated that there is no inherent conflict, there is a possibility that the situation could create a conflict under N.J.S.A. 18A:12-24(c), which provides:

No school official shall act in his official capacity in any matter in which he, a member of his immediate family, or a business organization in which he holds 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.

While the Board member has no financial involvement with the PTA, as President of the Association, she has a personal involvement that is of some benefit to her as an officer of the organization. Therefore, the Board member should abstain from any discussion or vote on any matter that will have an impact on the PTA. This should not be construed so broadly as to prohibit her from participating in any Board vote or discussion regarding funding for student programs or services that the PTA may favor. Rather, the Board member would violate N.J.S.A. 18A:12-24(c) only by discussing or voting on matters involving the PTA itself.

Last, the Commission also cautions the Board member regarding N.J.S.A. 18A:12-24(f). It provides:

No school official shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated.

The Board member will have access to confidential information regarding Board business that she will obtain from attending executive session meetings of the Board. This information could be used to the benefit of the PTA. While the PTA is a non-profit organization, it still needs funds to sustain it and serve out its mission. Therefore, the Commission advises that the Board member would violate N.J.S.A. 18A:12-24(f) if she were to use, or allow to be used, confidential information obtained in her capacity as a Board member to secure financial gain for the PTA.

We hope this answers your inquiry. Because the Commission believes that other board members may seek an opinion on this issue, it is making this opinion public.

Sincerely,

Paul C. Garbarini
Chairperson

I certify that the Commission voted to make this advisory opinion public at its meeting on May 23, 2000.

Lisa James-Beavers, Executive Director