



State of New Jersey  
DEPARTMENT OF EDUCATION  
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*Governor*

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*Lt. Governor*

DAVID C. HESPE  
*Acting Commissioner*

June 25, 2014

**FOR PUBLIC RELEASE**

SUBJECT: Advisory Opinion—A24-14

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion on your behalf, regarding the ability of school board members with conflicts on the Local Board of Education (Board) to conduct Board business in its search for a new Superintendent. Please be advised that the Commission, in accordance with its discretion under N.J.A.C. 6A:28-5.2(c)3, has specifically declined to accept your request in that the tribunal maintains that its determination in Martinez v. Albolino et al., Hackensack Board of Education, Bergen County, SEC Dkt. No. C45-11 (June 26, 2012), and its progeny sufficiently address the questions raised in your request.

Under Martinez, conflicted Board members may not participate in any discussion pre- or post-hire, may not be a part of any aspect of the vetting process or any evaluation and contract discussion post-hire. That would include voting on who should be on the selection committee or which firm will conduct the search. These conflicted Board members may not be in the room when discussions are underway, and they should not be privy to any information regarding those discussions. In short, they have rights only as great as the public does and no more.

We trust this answers your inquiry.

Sincerely,

Robert W. Bender, Chairperson