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## SCHOOL ETHICS COMMISSION

April 22, 2025

### For Public Release

Subject: Public Advisory Opinion – A06-25

The School Ethics Commission (Commission) received your request for an advisory opinion on behalf of two members of the Board of Education (Board), as well as on your own behalf. You verified that you copied the subjects of your request, Board member A and Board member B, thus complying with *N.J.A.C. 6A:28-5.2(b)*. The Commission notes that neither Board member A nor Board member B submitted a response to your request, and therefore, the Commission will issue 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 preliminarily discussed your request at its advisory opinion committee meeting on April 9, 2025, and again at its meeting on April 22, 2025.

You inform the Commission that the School District (District) is a "non-operating school district" that has "leased [its] former school building to" another local school (Academy). You state, "the Board is currently considering either selling or transferring ownership of the building to the [Academy] and is engaged in active negotiations."

You further inform the Commission that two of the five Board members, namely Board member A and Board member B, "have children who attended this [Academy] for their elementary education." You also inform the Commission that your son/daughter-in-law "was previously employed in a security capacity at the [Academy]"; however, he/she is no longer an employee and "has not been for some time."

Based on the information set forth above, you inquire whether "the past enrollment of their children in the [Academy] creates a conflict of interest under the" School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.*, that would require Board member A and Board member B to recuse themselves from discussion or votes on the sale or transfer of the property and whether your son/daughter-in-law's past employment in a security capacity at the Academy creates any conflict of interest under the Act for you related to the Academy.

As an initial matter, the Commission notes that Board members are bound by, and charged with, understanding and complying with the ethical standards set forth in the Act. The fact that Board members had children previously enrolled in a school, in this case the Academy, does not, in and of itself, prohibit them from serving as effective members of the Board.

With the above in mind, and in its review of the specific facts and circumstances detailed in your request, the Commission advises that absent another conflict, the facts and circumstances of which were not present in your request, Board member A and Board member B do not have a conflict related to the sale or transfer of the District's property to the Academy simply because their children were once students of the Academy.

As to your inquiry whether your son/daughter-in-law's previous employment in a "security capacity" at the Academy creates any conflict of interest under the Act for you related to the Academy, the Commission further advises because your son/daughter-in-law is no longer employed by the Academy, you do not have a conflict related to same.

Although you, Board member A and Board member B do not have a conflict related to the discussions or votes on the sale or transfer of the District's property to the Academy, the Commission recognizes that the named Board members may not feel comfortable participating in the matters concerning the Academy. Should this be the case, all or some of you may voluntarily recuse yourselves from any and all discussions and votes related to the Academy. Moreover, the Commission cautions that you, Board member A and Board member B, as with all Board members, must safeguard the sensitive and confidential nature of the information and materials that you are entitled to, and will have access to as Board members.

Finally, school officials must always be cognizant of their responsibility to protect the public trust, to honor their obligation to serve the interests of the public and the Board, and to periodically reevaluate the existence of potential conflicts of interest. In addition, the only way for a school official to truly safeguard against alleged violations of the Act is to avoid any conduct which could have the appearance, actual or perceived, of being in violation of the Act.

Sincerely,

Robert W. Bender, Chairperson  
School Ethics Commission