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SCHOOL ETHICS COMMISSION

April 22, 2025

For Public Release

Subject – Public Advisory Opinion – A07-25

The School Ethics Commission (Commission) received your request for an advisory opinion on your own behalf as a member of the Board of Education (Board). 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 (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 on March 17, 2025, the President and the Vice President of the local union (LEA) sent an email to the Board alleging that they filed an ethics complaint against you; however, you have not received any formal notification from the Commission about the filing of a complaint.¹ You state that the allegations within the Complaint "consisted of two charges." You note the first charge "asserts that [you] circumvented the regular procedures for a grade change and misused [your] position as a Board [m]ember and Board President to secure an unwarranted privilege for [your] child in the form of an increased grade." You maintain that "these allegations are baseless and unsupported by any evidence." You further note that the second charge "claims that [you] improperly influenced [your] child's acceptance into the National Honor Society (NHS)." You also maintain "these allegations are without merit and lack any supporting evidence."

Based on the information set forth above, you inquire (1) "[i]f an ethics filing does occur, would the mere submission of an ethics complaint – without a probable cause determination – constitute a valid reason for [you] to be conflicted from matters involving the Superintendent[.]" and (2) if probable cause were determined, whether you would be conflicted at that point.

¹ At the time the advisory opinion request was filed, the Commission had a Deficient Complaint, dated March 17, 2025, filed against the Board member. On April 4, 2025, Complainants cured all defects and filed an Amended Complaint that was deemed compliant with the Commission's regulations, and the Board member was served an acknowledgement along with instructions related to filing a Written Statement that same day.

As an initial matter, pursuant to *N.J.S.A. 18A:12-32*, the Commission shall not process any complaint nor issue a final ruling or advisory opinion where the subject matter of the complaint or advisory opinion is pending in any court of law or administrative agency of this State. At this time the Commission can confirm that a Complaint has been filed against you, because the Complaint has met the requirements for filing, and you have been served by the Commission. As such, the Commission recognizes that there is a matter pending before the Commission; however, the subject matter and inquiries posed in this request do not appear to be related to the pending matter, but rather concern whether you would be conflicted from matters related to the Superintendent due to the Complaint that was filed by the President and Vice President of the LEA, against you, and two administrators, as co-Respondents.

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, you do not have an automatic conflict related to matters involving the Superintendent, as the Superintendent is not the individual who has filed the “charges” against you. Nonetheless, when participating in matters related to the Superintendent, you are reminded that you must always be objective and exercise independent judgment, and you must not allow the pending matter, or any previous concerns impact your decision making as a Board member. In the event that you cannot be objective, you may be in violation of the Act.

Although not part of your request, and as you are aware, the President and the Vice President of the LEA have filed a complaint against you alleging, ultimately, that you used your position on the Board to gain a benefit and/or unwarranted privilege for your child. Regardless of whether the Commission finds probable cause, the pending matter creates a conflict that prohibits you from participating in any and all matters related to the LEA, including, but not limited to contract negotiations, until the matter currently pending with the Commission is fully adjudicated. Once this matter becomes a final agency decision, you may seek an additional advisory opinion regarding this issue, and you should provide the most up to date information and whether any members of the LEA have filed any other ethics charges against you.

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