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SCHOOL ETHICS COMMISSION

June 17, 2025

For Public Release

Subject – Public Advisory Opinion A11-25

The School Ethics Commission (Commission) received your request for an advisory opinion on behalf of a member of the Board of Education (Board). You verified that you copied the subject of your request, Board member A, thus complying with *N.J.A.C. 6A:28-5.2(b)*. The Commission notes that Board member A did not submit 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 discussed your request at its meetings on May 20, 2025, and June 17, 2025.

You inform the Commission that the local education association (LEA) "is the collective bargaining unit for the certified staff, instructional assistants, and administrative assistants of [the] Public Schools." You state that the LEA's "current contract with the Board ended in June 2024, and the Board and [the LEA] have been in ongoing, contentious negotiations for a new successor agreement since February 2024." You further state, "[d]uring the fourth negotiations meeting in May 2024, the [LEA] declared impasse in negotiations and subsequently requested mediation from the Public Employment Relations Commission (PERC)." You indicate that mediation began in August 2024; however, "little progress [was] made."

You note in the fall of 2024, the LEA "began printing and distributing yard signs within the town," which stated, "WE SUPPORT THE TEACHERS & STAFF," in response to the ongoing impasse, which coincided with the start of campaigning for the November 2024 Board election. You further note that in October 2024 the LEA hosted its first Board candidates' forum, where the candidates answered questions submitted by the LEA members.

You further inform the Commission that as a candidate for the Board during the Fall 2024 campaign, Board member A "demonstrated a strong personal involvement with the [LEA], endorsed the [LEA's] negotiations position, and benefited from [a] personal involvement with and endorsement of the [LEA]." More specifically, you note Board member A "actively assist[ed] the [LEA] in distributing their yard signs which were created to bolster the [LEA's] negotiations position[,] "post[ed] on their Facebook page about their negotiations-related yard sign" and posted comments on social media that

“clearly demonstrate” that Board member A held a personal involvement with the LEA “to create a benefit for [Board member A’s] campaign.”

You indicate that Board member A also ran for the Board in 2023, but did not win. However, when Board member A recently ran for a second time, “in the midst of the [LEA’s] contract negotiations,” Board member A was elected to the Board, and you note it was because Board member A “strongly endorse[ed] the [LEA] and the [LEA’s] negotiations position.” You state that on January 8, 2025, “at the Board reorganization meeting, during and after being sworn in,” Board member A “wore a [LEA]-created t-shirt that stated ‘LOVE [LEA]’” and then posted a picture wearing the t-shirt on Board member A’s campaign Facebook page. You further state that Board member A attended a LEA rally on April 3, 2025, with Board member A’s children, admittedly “in support of [Board member A’s] kids [(sic)] teachers and as a community member.” In addition, at a Board meeting on May 5, 2025, Board member A made statements, “which were out of order and elicited applause in favor of the [LEA] . . . that the Board should have already responded to the [LEA’s] latest negotiations email.”

Based on the information provided in your request, you inquire whether Board member A may (1) participate in the ongoing negotiations with the LEA or vote to ratify the new LEA contract at the conclusion of negotiations, and if Board member A is not allowed to vote, does Board member A need to recuse from the matter or is an abstention sufficient; (2) wear LEA clothing or paraphernalia at future Board meetings, effectively endorsing the LEA’s position in opposition to the Board and (3) attend future LEA negotiations rallies or speak privately about negotiations with LEA members or advisors.

As an initial matter, please be advised that the Commission’s authority is limited to enforcing the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.*, a set of minimum ethical standards by which all school officials must abide. In this regard, the Commission has jurisdiction only over matters arising under the Act, and it may not receive, hear, or consider any matter that does not arise under the Act, *N.J.A.C. 6A:28-1.4(a)*.

To the extent you are asking the Commission to opine on whether Board member A may wear “[LEA] clothing or paraphernalia at future Board meetings, effectively endorsing the [LEA’s] position in opposition to the Board” and whether Board member A may attend future LEA negotiations rallies the Commission notes it does not have the jurisdiction over such determinations. The Commission cannot advise what Board member A, or any other school officials, may wear. Furthermore, you have not indicated that Board member A attended the rally in the capacity as a Board member or invoked his/her Board status while at same, but rather you noted Board member A “attended a [LEA] rally on April 3, 2025, with [Board member A’s] children,” which presumably translates in Board member A’s capacity as a parent, who was supporting his/her children’s teachers.

Notwithstanding the above, and in review of the specific facts and circumstances presented in your request, the Commission advises, that supporting the teachers and/or the LEA does not, in and of itself, create a *per se* conflict of interest for Board member A related to participation in negotiations. Therefore, as long as Board member A does not, among other things, attempt to leverage or otherwise rely upon his/her Board position to support the union and/or the contract negotiations, engage in conduct which substantially conflicts with his/her service as a Board member, or utilize confidential information to provide the members of the LEA with an advantage, Board member A is not prohibited from supporting the LEA and/or the teachers while serving as a member of the Board.

As to your inquiry whether Board member A may speak privately about negotiations with LEA members or advisors, the Commission notes board members must also ensure that they safeguard the

sensitive and confidential nature of the information and materials that they are entitled to, and will have access to, as a Board member. Therefore, although Board member A is not prohibited from speaking with his/her children's teachers and/or LEA members, in general, the Commission notes that all matters discussed by the Board in executive session, including matters concerning negotiations, must remain confidential until such time that action regarding the matter is voted upon and adopted by the Board. Board members are bound by, and charged with understanding and complying with, the ethical standards set forth in the Act. More specifically, the Code of Ethics for School Board Members (Code), namely *N.J.S.A. 18A:12-24.1(g)* provides:

I will hold confidential all matters pertaining to the schools, which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

Further, if Board member A, as one of several members of the Board, does not agree with the Board's position in the negotiations with the LEA or how it may impact the teachers, it is Board member A's prerogative to oppose the adoption of the contract (by voting "no") or to abstain from the vote. In addition, it is Board member A's right, as a Board member, to express contrary views to that of the Board, and dissonance in this regard does not translate to a *per se* conflict.

Finally, as a reminder, 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. 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