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**SCHOOL ETHICS COMMISSION**

September 23, 2025

**For Public Release**

Subject – Public Advisory Opinion A13-25

The School Ethics Commission (Commission) received your request for an advisory opinion on behalf of your client, 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 August 19, 2025, and September 23, 2025.

You inform the Commission that Board member A has hired a District teacher to tutor his/her child once a week for an hour for approximately five weeks during the summer. You note that the "teacher will not be the student's teacher for the upcoming 2025-2026 school year, but is a teacher at the child's middle school."

You further inform the Commission that Board member A serves on the Negotiations Committee and has indicated that he/she is "not aware of any pending Board related actions that would directly impact the teacher, nor is the Board in any active negotiations with the [Local] Education Association" (LEA).

You note that you have "proactively advised Board member A that given the above arrangement, he/she would need to recuse on discussions and voting on any matters where such tutoring would be seen as either financial involvement that could 'reasonably be expected to impair [his/her] objectivity or independence of judgment,' or a personal involvement that is or creates some benefit to the school official or members of [his/her] immediate family.'" Further, you have advised Board member A that "while employing a teacher as a private tutor for his/her child may not constitute 'Prohibited Acts' . . . a situation could arise" that may have the potential to compromise the Board.

Based on the information provided in your request, you are inquiring whether Board member A's employment of a District teacher as a tutor for pay would violate the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.*, and whether Board member A must recuse themselves from any Board action specifically involving the teacher.

As an initial matter, the Commission notes that advisory opinions are limited to addressing *prospective* activity or conduct only. *N.J.A.C. 6A:28-5.2(a)*. The Commission further notes your request appears to be predicated on activity and conduct that has already occurred, namely Board member A's employment of a District teacher as his/her child's tutor. Therefore, please be advised that the Commission will not offer any advice or guidance, or render any determination, as to whether Board member A's actions or conduct may have violated the Act because it has already occurred.

Notwithstanding, the Commission can address the extent to which the employment of a teacher within the same school district for which Board member A serves as a Board member impacts Board member A's current and future Board activities. In its review of the circumstances provided in your request for an advisory opinion, and provided that Board member A has not taken any action that would compromise the Board as a whole in the exercise of its official duties, the Commission reaffirms your advice, namely that while Board member A is employing a District teacher as a tutor, he/she should continue to "recuse [] on discussions and voting on any matters where such tutoring would be seen as either a financial involvement that could 'reasonably' be expected to impair [his/her] objectivity or independence of judgment," or a personal involvement 'that is or creates some benefit to the school official or member of [his/her] immediate family.'"

Moreover, the Commission further reaffirms your advice that "a situation *could* arise" related to the teacher, and therefore, the Commission notes that Board member should also recuse from any and all matters related to the teacher's employment while the teacher is employed as Board member A's child's tutor. Should a matter come before the Board that involves the teacher, Board member A should not participate in any discussions and/or votes related to same. This includes, but is not limited to, any and all matters related to the local union, as well as any employees who directly supervise the teacher. Furthermore, Board member A should not be a member of the Negotiations committee while he/she is employing the teacher as his/her child's tutor, regardless of whether there are currently "any pending Board related actions that would directly impact the teacher." The Commission cannot predict any and all possible conflicts that may arise for Board member A should he/she continue to serve on the Negotiations committee while he/she is employing a teacher as his/her child's tutor.

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