



State of New Jersey

DEPARTMENT OF EDUCATION

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SCHOOL ETHICS COMMISSION

September 23, 2025

For Public Release

Subject – Public Advisory Opinion A15-25

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. *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 you are employed as the Director for the City. You state that the City operates under the Faulkner Act of Government, and the Directors of Departments are appointed by the mayor with the advice and consent of the City Council.

You further inform the Commission that the following individuals are employed by the Board and are also employed by, or have a family member employed by, the City:

- Board member A, Director of Operations (Assistant Superintendent level) is an elected Councilman for the City;
- Assistant Superintendent, husband who is an elected Councilman for the City;
- Counsel, father who is an elected Councilman for the City.

You note that you have been recusing from all matters involving these individuals based upon their direct or familial relationships with your employer.

Based on the information provided in your request, you are requesting whether you are precluded from participating in any matters involving the Superintendent given that the Superintendent "is ultimately the head of all employees in the District."

In its review of the specific facts and circumstances noted in your request, the Commission advises that because you are employed as a Director by the City and because Board member A, the Assistant Superintendent's spouse and Counsel's father are all Councilmen for the City, you should

continue to recuse yourself from any discussions or votes related to Board member A, the Assistant Superintendent and Counsel. The Commission notes that because you are a Director for the City, where these individuals and/or a member of their immediate family/relative are members of the Council, who will all act in their respective public bodies to advise the mayor, your boss, and then you in turn have a role in their employment as a Board member, such legitimate action may be viewed by the public as an attempt to use your positions to secure advantages for yourselves or others. Regardless of whether you have an actual or only a perceived personal or financial involvement (direct or indirect) in such matters, your involvement could violate the public's confidence. The Commission notes whether Board member A, the Assistant Superintendent's spouse and/or Counsel's father should also recuse themselves from matters involving your employment with the City is a matter outside the scope and jurisdiction of the Commission.

As to your inquiry related to the Superintendent, the Commission further advises because of your reciprocal relationship with the named District employees, which would directly impact their financial interests, the public may come to believe that your objectivity or independence of judgment may be impaired. Therefore, permitting you to vote or engage in any employment matters, including but not limited to evaluations and contract negotiations, involving the Superintendent of Schools, who has a supervisory role over Board member A, the Assistant Superintendent and Counsel, would call into question the motive for your actions and ultimately, the actions of the entire Board. As such you should recuse yourself from participating in any and all discussions and votes related to the Superintendent's employment.

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