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School Ethics Commission

August 25, 2026

For Public Release

Subject: Public Advisory Opinion – A15-26

The School Ethics Commission (Commission) received your request for an advisory opinion regarding the conduct of three members of the Board of Education (Board). You verified that you copied the subjects of your request, namely Board Member A, Board Member B and Board Member C, thus complying with *N.J.A.C. 6A:28-5.2(b)*. The Commission notes that the subject Board members 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 (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 August 12, 2026, and again at its meeting on August 25, 2026.

You inform the Commission that "Board Policy 1330, Evaluation of the Business Administrator" (BA), "remained in effect throughout the period during which the Board was expected to complete the School Business Administrator's evaluation" and "was in effect when the Board conducted the most recent evaluation of the School Business Administrator." You state, "During this process, [the subject Board members] declined to participate in completing the evaluation required under Board Policy 1330." You further state that Board Member A provided the Board with a written explanation, ultimately indicating that the Board "has not historically conducted evaluations of the" BA, and doing so now "could create the appearance that [the BA] was being singled out" because he is the "first Hispanic Business Administrator."

You further inform the Commission that the Personnel Committee has discussed and recommended "repeal of Board Policy 1330 for consideration by the full Board, and that [the subject Board members] support that recommendation and intend to participate in the discussion and vote concerning that proposal."

Based on the information provided in your request, you make the following inquiries:

1. If a Board member participates in recommending, discussing, or voting to repeal Policy 1330 for the purpose of protecting the current School Business Administrator from an evaluation requirement because of his ethnicity, could that constitute an attempt to secure an unwarranted privilege or advantage for “others” under N.J.S.A. 18A:12-24(b)?
2. If a Board member participates in the repeal for the purpose of using that repeal to excuse, ratify, or prevent scrutiny of the member’s own earlier refusal to participate while the policy was still in effect, could that constitute an attempt to secure an unwarranted advantage for the member under N.J.S.A. 18A:12-24(b)?
3. If the repeal is entirely prospective and cannot excuse or affect conduct that occurred while Policy 1330 remained in force, does the earlier nonparticipation, standing alone, create any ethical restriction on the members’ participation in the prospective repeal?

As an initial matter, please note it is unclear why the Board would have a board policy related to the evaluation of any employee, other than the Superintendent. Pursuant to *N.J.S.A.* 18A:27-4.1, the Superintendent has a statutory obligation to recommend all appointments, transfers, removals or renewals of board employees to the Board, including the Business Administrator. In addition, the Commission further notes that pursuant to *N.J.S.A.* 18A:12-24.1(h), the role of a Board member is to **vote** to appoint the best qualified personnel available **after** consideration of the recommendation of the chief administrative officer (Superintendent) (emphasis added). Moreover, pursuant to *N.J.S.A.* 18A:17-20.3, a board of education shall evaluate the performance of the superintendent at least once a year. In sum, it is not the Board’s responsibility to hire or evaluate any district personnel other than the Chief School Administrator (Superintendent).

Turning to your request, and in its review of the specific facts and circumstances detailed within, the Commission advises that the subject Board members, or any other Board member would not violate the Act, including but not limited to *N.J.S.A.* 18A:12-24(b), if they were to participate in “recommending, discussing, or voting” to repeal Board Policy 1330, regardless of whether they declined to participate in completing the evaluation required under Board Policy in the past. If any other basis for a conflict of interest with respect to the subject Board members and the BA exists, it has not been articulated in this request.

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,

Dennis M. Roberts, Chairperson
School Ethics Commission