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SCHOOL ETHICS COMMISSION

September 23, 2025

For Public Release

Subject – Public Advisory Opinion A16-25

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 subjects of your request, Board member A and Business Administrator/Board Secretary (BA/BS), thus complying with *N.J.A.C. 6A:28-5.2(b)*. The Commission notes that the named school officials 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 preliminarily discussed your request at its Advisory Opinion Committee meeting on September 10, 2025, and again at its regular meeting on September 23, 2025.

You inform the Commission that Board member A and the BA/BS, are in a relationship and are currently engaged to be married. You note that the BA/BS was employed by the School District (District) before Board member A was elected to the Board. You further note the BA/BS "was later elevated to the current position []" and his/her contract was approved by the Executive County Superintendent.

You further inform the Commission that once Board member A and the BA/BS began their relationship, they "immediately disclosed" it to the Board and, thereafter, Board member A "properly abstained from and will continue to abstain from, voting on any personnel or employment matters relating to [the BA/BS] and anyone in his/her chain of command." You state that they have read previously issued public advisory opinions; however, none of them involve a Board member and an administrator, who share a personal relationship and are soon to be married. You indicate that Board member A "has not been involved in nor does [he/she] have knowledge of any budgetary discussions." You further indicate that "[i]t is the Board's belief that the potential conflict ends once the Board considers and votes on any specific matter regarding [the BA/BS's] employment and does not extend to the adoption of the annual budget."

Based on the information provided in your request, you are inquiring whether “the nature of their relationship creates a conflict for the limited purpose of voting on the District’s annual budget” and “whether the analysis or outcome changes once the Board [m]ember and the [the BA/BS] are married.”

As an initial matter, the Commission acknowledges, as indicated in your request, that Board member A’s fiancé (the BA/BS) is not, at the present time, a member of his/her immediate family nor his/her relative. Consequently, Board member A’s fiancé falls under the umbrella of “others” as enumerated in *N.J.S.A. 18A:12-24(b)*, which prohibits a school official from using or “attempting to use his/her official position to secure unwarranted privileges, advantages, or employment for [himself/herself], members of [his/her] immediate family or *others*.” Once Board member A and the BA/BS are married, his/her fiancé would become his/her spouse, and therefore, fall within the definition of both “member of immediate family” and “relative.” At that time, the Commission’s advice issued in *Advisory Opinion A24-17* (A24-17) will be instructive.

Therefore, the Commission appreciates the precautions that you have implemented to avoid the appearance, actual or perceived, that Board member A is using or attempting to use his/her position to provide an unwarranted privilege, advantage or employment to himself/herself or the BA/BS. Although they are not currently married, their relationship creates a setting that is possibly compromising for the Board as a whole. In enacting the Act, the Legislature found that “it is essential that the conduct of members of local boards of education and local school administrators hold the respect and confidence of the people.” *N.J.S.A. 18A:12-22*. As such, “board members and administrators must avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.” *Ibid*. Accordingly, Board member A must consider the possible appearance of impropriety in all of his/her actions.

Turning to your request, and in its review of the specific facts and circumstances provided within, the Commission notes that because of the personal relationship and pending marriage, between two school officials and the roles that they hold, the public could reasonably expect or perceive that Board member A’s ability to maintain his/her objectivity or independence of judgment could be compromised and it would create the perception that the public trust has been violated. In other words, it would appear (actual or perceived) that Board member A’s involvement with any budgetary matters that may come before the Board (now and after they are married), would create a justifiable impression among the public that their trust was being violated. Therefore, the Commission advises that Board member A’s involvement in any discussions and votes related to the annual budget, as well as any other matters related to the BA/BS, in his/her role as the BA/BS, would violate the Act. The Commission cannot predict every possible conflict that may arise related to the BA/BS’s role in his/her capacity as the BA/BS, and recognizes the limitations this may place on Board member A’s abilities to perform his/her duties as an elected school official; however, there are not any precautions adequate enough to protect the public trust and confidence save Board member A’s recusal from such Board activity.

The Commission notes you indicated that Board member A “properly abstained from and will continue to abstain from, voting on any personnel or employment matters relating to [the BA/BS] and anyone *in [his/her] chain of command*.” (emphasis added). Although not part of your inquiry, the Commission would like to clarify the individuals who are included in the “chain of command.” Therefore, the Commission further advises that Board member A should not be

involved in any and all matters related to the employment of those individuals who the BA/BS supervises, as well as those individuals who supervise the BA/BS, i.e., the Superintendent.

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