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SCHOOL ETHICS COMMISSION

September 23, 2025

For Public Release

Subject – Public Advisory Opinion A18-25

The School Ethics Commission (Commission) received your request for an advisory opinion regarding the actions 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 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 has a "history of direct litigation with" the Superintendent, a "long-running public campaign of criticism" regarding the Superintendent and a "role as a litigant in ongoing proceedings concerning [the Superintendent]." More specifically, you state that while the Superintendent was pursuing a doctorate degree, Board member A "interfere[d] with [his/her] academic program," and the Superintendent filed a complaint against Board member A alleging harassment and interference. You indicate that Board member A "gave testimony regarding [the Superintendent] where [he/she] insisted [the Superintendent's] tuition reimbursement was not legal." You further state that Board member A "authored and circulated a 40-page document titled 'The Case Against [the Superintendent]' filled with false allegations and misinformation," and "distributed this document widely on social media, attempting to discredit [the Superintendent] and the Board."

You further inform the Commission that Board member A created a Facebook page, and for the past four years she "has used this page to repeatedly call for [the Superintendent] to be fired, posting commentary that undermines confidence in the superintendent." You note that Board member A also "created a YouTube channel dedicated to posting clips of [the Superintendent] at [B]oard meetings." You further note that the clips are "routinely posted with exaggerated or misleading titles that mischaracterize events, sowing confusion in the public and animosity toward the superintendent." You indicate that Board member A "is currently a party to [an] ongoing ethics case before the Commissioner of Education in which [he/she] alleged that [a former Board member] used [his/her] position to obtain favors from [the Superintendent] while [he/she] was a middle school principal."

Based on the information provided in your request, you are inquiring whether Board member A is required to “recuse [himself/herself] from participating in, discussing, or voting on all matters directly relating to [the] Superintendent, including [his/her] annual evaluation, contract, and personnel matters.”

In its review of the specific facts and circumstances detailed in your request, the Commission notes that it appears Board member A and the Superintendent have a tenuous history that originates from Board member A’s belief that the Superintendent’s “tuition reimbursement,” while furthering his/her education, “was not legal.” Moreover, Board member A “authored and circulated a 40-page document” and posted the document on social media, and “created a YouTube channel dedicated to posting clips of [the Superintendent],” ultimately to support his/her “long-running public campaign of criticism” regarding the Superintendent. Therefore, the Commission advises Board member A should recuse from, and abstain on, all votes related to any and all matters concerning the Superintendent’s employment, including, but not limited to his/her “annual evaluation, contract, and personnel matters.”

The Commission notes that each circumstance must be examined on a case-by-case basis to determine whether the public might reasonably perceive that a prior animus has the potential to prejudice or interfere with a board member’s independence of judgment in the exercise of their official duties as a board member or could create a justifiable impression that the public trust has been violated. Here, the Commission’s advice is centered on the totality of Board member A’s actions, namely his/her “interference with [the Superintendent’s] academic program,” his/her insistence that the Superintendent’s “tuition reimbursement was not legal,” the 40-page document posted on social media entitled and the YouTube channel. The Commission maintains these actions span over the course of several years, appear to be beyond a typical disagreement and support the existence of a tenuous history between Board member A and the Superintendent, and therefore, in order to avoid a possible violation of the Act, Board member A should not participate in, or vote on, any matter that involves the Superintendent’s employment. The Commission notes permitting Board member A to participate in any matters related to the Superintendent’s employment would subvert the fundamental purpose of the Act and call into question the integrity of the vote, the action, and ultimately the Board and its members. Such a circumstance would vitiate the foundation of the Board as a fair and impartial tribunal and ultimately damage the public trust.

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