

February 10, 2006

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion A31-05

The School Ethics Commission is in receipt of your request for an advisory opinion on behalf of a school board member. The Commission notes that the board member who is a subject of the request has given her written consent for the advisory opinion request. You have asked whether it would be a violation of the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq., if the board member held the position of School Resource Office (SRO), while at the same time maintaining a seat on the board.

You have set forth that the board member was elected to a three-year term in April 2005 and is regularly employed as a police officer in the city where the district is located. You have also set forth that there is a possibility that the board member's employer may assign her to be the district's SRO. The SRO program is a national program, which entails the placement of a law enforcement officer in school districts. You have attached an SRO job description that was prepared by the city's police department in consultation with school administrators. The SRO job description sets forth that the position involves the active presence of the SRO in the school district to deal with all law enforcement related issues. It further sets forth that "...the SRO shall work to improve the security of the schools, to enhance the learning environment and to forge positive relationships between students, staff, parents and law enforcement." In addition, the SRO is to act as the liaison between the school and the local police department as well as between students and social agencies. The SRO is required to attend evening/after school events as requested by the Principal. The SRO may visit classes, the cafeteria, the gym, etc. The SRO is encouraged to speak informally with staff and students to develop positive relationships. You have also set forth that the SRO may provide law related classroom presentations on violence diffusion, safety programs and alcohol and drug prevention programs. The SRO may also serve as a resource to parents, teachers and students to deal with individual problems and concerns.

At its January 24, 2006 meeting, the Commission determined, pursuant to its authority in N.J.S.A. 18A:12-28(b), that the board member would violate the Act if she continued to serve on the board while acting as the district's SRO.

Your inquiry turns on the application of N.J.S.A. 18A:12-24(a), which provides:

No school official or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest;

If the board member was appointed as the district's SRO, the board member would be engaging in a professional activity since her profession is that of a police officer. For a violation to exist under N.J.S.A. 18A:12-24(a), there would have to be a substantial conflict between the board member's professional activity and her duties as a school board member. Based on the job description of the SRO, the Commission notes that the SRO is involved in the daily affairs of the district, including evening and after school events. The SRO is also involved with the staff, students and parents on a daily basis, which includes serving as a resource to parents, teachers and students to deal with individual problems and concerns. The SRO also represents the district as the liaison between the school and the local police department as well as between students and social agencies. In her duties as an SRO, she could be arresting district students, interviewing staff or students, meeting with parents and reporting to the district as liaison between the district and the police department. In her interactions with staff, students and parents, many of whom would be aware of her status as a member of the board, which could compromise her position as an SRO and create a conflict with her duties as a board member. Furthermore, this type of daily involvement with the district, its staff, students and parents would create a substantial conflict with the board member's duties because she would have significant entanglements with staff, students and parents every day. Therefore, the Commission advises that the board member would violate N.J.S.A. 18A:12-24(a) if she were to accept the appointment as the district's SRO while maintaining her seat on the board.

Your inquiry also raises issues under N.J.S.A. 18A:12-24(d), which provides:

(d) No school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties,

For a violation to exist under N.J.S.A. 18A:12-24(d), there would have to be an inherent conflict between the position of board member and the position of SRO. As noted above, the position of SRO involves significant entanglements with the district, its staff, student and parents. Because of her day to day contact with the district in her role as SRO, as outlined above, she may be called as a witness against the board by staff or

students. Although she is paid by the police department, her status in the school is similar to that of an employee, which could compromise her judgment as a board member. Her SRO duties as a liaison between the school and the local police department and between students and social agencies could also compromise her judgment as a board member because her duties as a board member could involve interactions with either the police department or social agencies. Therefore, it is reasonable to expect that her independent judgment would be compromised in the exercise of her duties as a member of the board. Thus, the Commission advises that the board member would violate N.J.S.A. 18A:12-24(d) if she were to accept the appointment as the district's SRO while maintaining her seat on the board.

Such close and daily interaction with the students, staff and administration could also bring her into violation with the Code of Ethics for School Board Members at N.J.S.A. 18A:12-24.1(c) and (j) which provide respectively:

(c) I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

(j) I will refer all complaints to the chief school administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

In her role as an SRO, her actions would not be confined to policy making, planning and appraisal because she is actively working in the school in violation of N.J.S.A. 18A:12-24.1(c). As an SRO, she would serve as a resource to staff, students and parents to deal with individual problems and concerns. Thus, she would not be bringing complaints to the chief school administrator and acting on complaints at public meetings only after failure of an administrative solution. She would be deeply involved in the resolution of complaints in violation of N.J.S.A. 18A:12-24.1(j).

The Commission advises that the board member would violate N.J.S.A. 18A:12-24(a), and (d), and N.J.S.A. 18A:12-24.1(c) and (j) if she were to be appointed by her employer as the district's SRO and maintain her seat on the board.

We trust that this opinion answers your inquiry. Because the Commission believes that this opinion will be of interest to other board members, it is making it public.

Sincerely yours,

Paul C. Garbarini,
Chairperson