



State of New Jersey
DEPARTMENT OF EDUCATION
PO Box 500
TRENTON, NJ 08625-0500

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

DAVID C. HESPE
Acting Commissioner

October 29, 2014

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion—A36-14

Pursuant to your request for an advisory opinion, filed on your behalf as a school board member with the Local Board of Education (Board), and consistent with its authority under N.J.S.A. 18A:12-28(b), the School Ethics Commission (Commission) discussed this matter at its September 23, 2014 meeting. The Commission will provide its advice based solely on the information you included in your advisory opinion request.

You have inquired whether it would be a violation of the School Ethics Act (Act), N.J.S.A. 18A:12-21 et seq., for you to endorse candidates for election to the Board, and if allowed, would there be limitations on your use of lawn signs, publications such as pamphlets, social media, and the potential need for disclaimers in issuing endorsements. The Commission has determined that there would be no violation of the Act for you to express yourself politically as a private citizen with regard to the endorsement of candidates in any election. You do not give up your fundamental rights as a citizen upon being seated on a board of education. However, as you suspect in your inquiry, certain precautions are necessary.

With regard to any pamphlets or other publications you may create, you must include a disclaimer, making it clear that your endorsement is as a private citizen and not as a member of the Board or on behalf of the entire Board. Such a disclaimer would not be necessary on a generic party-created sign, endorsing the candidate(s) and placed on the lawn of your private residence. However, if you were to create a lawn sign yourself, the disclaimer must be included as with publications. Similarly, your use of social media, including but not limited to social media websites or apps like Facebook, Twitter, and Instagram, would require the disclaimer that your endorsement is a personal one and not as a Board member or an endorsement on behalf of the entire Board. Moreover, the use of social media in this context may only be published on your own personal social media account and not one representing the Board or you as a Board member.¹

¹ For example, you can issue an endorsement on a Facebook account registered as "Name" but not one registered as "Name, Local Board of Education Member" or the like. Any social media account that inherently indicates your position as a Board member could not be used.

Finally, you inquired about suggested language to use in a disclaimer for potential publications, pamphlets or on social media. The Commission will defer to your discretion on the exact wording of any such disclaimer, but suggests the language must be clear, visible, and indicate your endorsement is as a private citizen and not as a member of the Local Board of Education nor is the endorsement on behalf of the entire Board.

We hope this information is helpful.

Sincerely,

Robert W. Bender, Chairperson