



State of New Jersey

DEPARTMENT OF EDUCATION

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Governor

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Lt. Governor

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Commissioner

September 25, 2013

Ms. Rachel Green
884 Boundary Road
Deptford, NJ 08096

Re: Advisory Opinion A17-13

Dear Ms. Green:

The School Ethics Commission is in receipt of your request for an advisory opinion submitted pursuant to N.J.A.C. 6A:28-5.2(a). 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, as a board member of the Deptford Township Board of Education, to participate in issues related to an employee of the school district who recently became engaged to your sister. You note that the board attorney has advised that you must recuse yourself from any matters regarding this employee.

It appears that your inquiry turns on the application of N.J.S.A. 18A:12-24(c), which provides:

No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family[.]

The School Ethics Act at N.J.S.A. 18A:12-23 defines "member of the immediate family" as the spouse or dependent child of a school official residing in the same household. Additionally, the Act defines "relative" as the spouse, natural or adopted child, parent or sibling of a school official. This man, who is the fiancé of your sibling, is not included in either definition.

The Commission advises, however; that the amended law, referenced above, is to be read in conjunction with N.J.S.A. 18A:12-22(a), which provides:

In our representative form of government, 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. These 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.

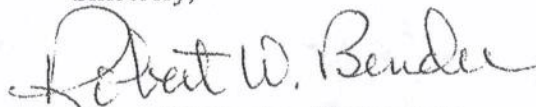
The Commission recognizes that it is the duty of all members and their Boards to safeguard the public's confidence and trust in them and to act to protect their faith in these elected officials. To do otherwise would thwart the very purpose of the Act.

Additionally, the Commission is also mindful of N.J.S.A. 18A:12-24(b), which provides: "[n]o school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others." As applied in this setting, your relationship with your sister's fiancé is too attenuated to trigger a violation; however, you share the same responsibility as all Board members not to use your position to benefit others.

While there is no specific statutory prohibition to your current participation in employment issues relating to this employee, the Commission advises that you carefully consider whether any of the actions that you may take with regard to this individual now and particularly when he may become your brother-in-law, which may be perceived by the public as contrary to the best interest of the district and as an attempt to use your official position to provide some advantage to another in violation of N.J.S.A. 18A:12-24(b).

We trust that this opinion answers your inquiry.

Sincerely,



Robert W. Bender, Chairperson