

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 04-34**  
September 30, 2004

**RE:** May public servant be involved in personnel matters concerning a family member?

**DECISION:** No.

This opinion is issued by the Executive Branch Ethics Commission (the "Commission") upon its own motion. This matter was reviewed at the September 30, 2004 meeting of the Commission and the following opinion is issued.

The Executive Branch Ethics Commission, through recent investigations, has discovered various employment situations within the Department of Parks (the "Department") that involve employees interviewing, employing, supervising, and/or evaluating family members. The Commission seeks through this opinion to provide guidance to the Department, as well as other state agencies, on the employment of family members within the same state agency.

KRS 11A.020(1)(a), (c) and (d) provide:

(1) No public servant, by himself or through others, shall knowingly:

(a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

...

(c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

A family member of a public servant is not prohibited by the Executive Branch Code of Ethics from employment in the same state agency as the public servant.

However, the Commission believes that KRS 11A.020(1)(a), (c) and (d) serve to prohibit a public servant from advocating or influencing in any way the employment, appointment, promotion, transfer, or advancement of a member of the public servant's family to an executive branch position of employment that the public servant directly supervises or manages.

Specifically, employees should not be involved in interviewing, recommending, or approving family members for positions within their employing agencies. They should not directly supervise a family member or evaluate a family member's job performance. The Commission also believes that a public servant should not participate in an action relating to the discipline of a member of the public servant's family.

Such involvement by a public servant could be perceived as the use of one's official position to give a family member an advantage or a financial gain, and would also present a conflict between the public servant's private interest and duties in the public interest.

The Commission is aware that the Department is in the process of drafting and implementing policies and procedures that will address nepotism within the agency, and the Commission commends the new administration for such action.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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BY CHAIR: James S. Willhite