

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 06-14**

June 16, 2006

RE: May employee supervise another employee with whom he shares a residence?

DECISION: No.

This opinion is issued in response to your May 26, 2006 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 16, 2006 meeting of the Commission and the following opinion is issued.

You provide the following relevant facts as follows. A recently promoted County Superintendent (male) employed by a local district office of the Transportation Cabinet supervises and evaluates a female employee with whom he has lived for the past 10 years, but to whom he is not married. The female employee's position is Administrative Specialist II for the county crew. Both the Superintendent and the Administrative Specialist have designated each other as the beneficiary of their state retirements.

You are not aware of any special privileges or advantages that the Administrative Specialist has received to date, but you have received some complaints on this situation from other co-workers in the crew. You ask for an advisory opinion as to whether this situation presents a conflict of interest.

KRS 11A.045(1) provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 06-14

June 16, 2006

Page Two

against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety

Further KRS 11A.020(1)(a) 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;

...

(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.

In previously issued Advisory Opinion 04-34 (a copy of which is enclosed), the Commission opined that employees should not directly supervise a family member, evaluate a family member's job performance, or 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 to give a family member a benefit, an advantage or a financial gain, and would present a conflict between the public servant's private interest and his duties in the public interest.

Similarly, the Commission believes that if two employees are sharing a household, although not family members, a close relationship exists that presents a conflict of interest for the employee to be involved in the hiring, supervision, evaluation, or discipline of the other employee. Such involvement by an employee in matters concerning another employee with whom he has, in substance, a "family-like" relationship, and thus will benefit from, could be perceived as use of one's position to give an advantage to oneself or to the other employee, and also would present a conflict between the employee's private interest and his duties in the public interest.

EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 06-14  
June 16, 2006  
Page Three

Thus, the Commission believes in order to avoid a conflict of interest, the Superintendent should not directly hire, supervise, evaluate, or discipline the Administrative Specialist, if, in substance, such a close “family-like” relationship exists that will allow the Superintendent to benefit from any financial gain of the employee.

Sincerely

EXECUTIVE BRANCH ETHICS COMMISSION

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BY CHAIR: John A. Webb

Enclosure      Advisory Opinion 04-34