

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 00-64**

November 3, 2000

RE: May Deputy State Treasurer's spouse serve on Board administered by the Office of the State Treasurer?

DECISION: Yes.

This opinion is in response to your October 24, 2000, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the November 3, 2000, meeting of the Commission, and the following opinion is issued.

The relevant facts are as follows. The Kentucky State Treasurer is chair of the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund that was newly established during the 2000 Regular Session of the General Assembly. The fund is administered by the Office of the State Treasurer. The purposes of the fund are to provide affordable access to participating institutions for the qualified beneficiaries and to provide students and their parents economic protection against rising tuition costs. The fund is governed by an 11 member board of directors that includes five (5) ex officio members, one of which is the State Treasurer, three (3) members appointed by the State Treasurer, and three (3) members appointed by the Governor. Members of the Board receive no compensation but are reimbursed for expenses incurred in the performance of their duties. You state that the Governor appointed the spouse of the Deputy State Treasurer to the Board. You ask whether or not this is a conflict of interest.

KRS 11A.020 provides:

(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;

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(b) Use or attempt to use any means to influence a public agency in derogation of the state at large

(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.

...

(3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.

The Commission believes that it is not a conflict of interest for the spouse of the Deputy State Treasurer to serve on the Board of the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund. However, the Deputy State Treasurer should recuse herself, pursuant to KRS 11A.020(3), in any situation that would lead members of the general public to conclude that she is using her official position to benefit her spouse.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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BY CHAIR: Bertie Oldham Salyer, M.A., A.M.E.