

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 95-19
June 27, 1995

RE: Is it a conflict of interest for members of State Board of Elections to
(1) do business with, or (2) have daughter employed by, a local board
of education under state management?

DECISION: (1) No, in this instance.
(2) Yes. Member should abstain from voting on matters pertaining to
the state's management of the local district.

This opinion is in response to your April 27, 1995, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"), which was forwarded to the Commission from the Office of the Attorney General. This matter was reviewed at the June 27, 1995, meeting of the Commission, and the following opinion is issued.

The relevant facts provided by you and others are as follows. A member ("Member") of the State Board of Education ("State Board") has a daughter who is employed by the local board of education where the Member resides. In addition, the Member owns a local newspaper which does business with the local board of education by publishing the local board's performance report as required by KRS 158.6453(4), which provides:

(4) By October 1 of each year, local boards of education shall publish in the newspaper with the largest circulation in the county an annual performance report on district accomplishments and activities pertaining to performance goals including, but not limited to, retention rates and student performance, the districts' goals for the succeeding year, and other items as may be set forth in state board for elementary and secondary education administrative regulations.

The local school board is currently under state management.

You ask whether it presents a conflict of interest for the Member to serve on the State Board since he does business with, and has a daughter employed by, the state-managed local school board.

If the State Board Member does no business with the local school board other than publishing the annual performance report in his newspaper, no conflict is apparent because the statute cited above gives the local school board no discretion in choosing the newspaper of publication (it must choose the newspaper of largest circulation in the county).

However the employment of the State Board Member's daughter by the local board could present a conflict. The Commission believes KRS 11A.020(1)(c) and 11A.030(2) (cited below) should be considered in this case.

**11A.020 Public servant prohibited from certain conduct --
Disclosure of personal or private interest.**

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

...

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

**11A.030 Considerations in determination to abstain from action
or official decision -- Advisory opinion.**

In determining whether to abstain from action on an official decision because of a possible conflict of interest, a public servant should consider the following guidelines:

...

(2) The effect of his participation on public confidence in the integrity of the executive branch;

The Commission believes the Member may continue to serve on the State Board, but he should abstain from taking part in any hearings, actions or votes pertaining to the State's management of the local school district.

EXECUTIVE BRANCH ETHICS COMMISSION

BY: Livingston Taylor, Chairman