



OHIO ETHICS COMMISSION

THE ATLAS BUILDING
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Advisory Opinion
Number 85-009
July 24, 1985

Syllabus by the Commission:

- (1) The Ohio Ethics Law and related statutes do not, *per se*, prohibit an officer and part owner of a private company that sells fund raising services to building principals, parent groups, and school activity sponsors in school districts from serving as a member of a board of education.
- (2) Division (A)(1) of Section 2921.42 of the Revised Code prohibits a school board member who is an officer and part owner of a private company that sells fund raising services from authorizing, voting, or otherwise using the authority or influence of his office to secure approval of a contract with a building principal or school activity group in his district.
- (3) Division (A)(4) of Section 2921.42 of the Revised Code prohibits a school board member who is an officer and part owner of a private company that sells fund raising services from having an interest in the profits or benefits of a contract with a building principal or school activity group for the use of the schools in his district.

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You asked whether the Ohio Ethics Law and related statutes would prohibit an officer and part owner of a private company that sells fund raising services to building principals, parent groups, and school activity sponsors in school districts from serving on the board of education.

You stated, by way of history, that you are an officer and part owner of a private company that sells fund raising services to non-profit organizations in twenty states to raise money for their activities. You stated further that you have been asked to be a candidate for the board of education in your local school district. You indicated that your private firm employs a sales representative who sells fund raising services and products to building principals, parent groups, and school activity sponsors in your school district. These funds are used to purchase such items as music, band uniforms, and athletic equipment for use in school sponsored activities. You asked whether such business dealings would prohibit you from serving on the school board.

Division (A) of Section 2921.42 of the Revised Code provides, in pertinent part:

- (A) No public official shall knowingly do any of the following:
 - (1) Authorize, or employ the authority or influence of his office to secure approval of a public contract in which he, a member of his family, or any of his business associates has an interest.

...

- (4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which he is connected.

A member of a board of education in a school district is a "public official" as defined in Division (A) of Section 2921.01 of the Revised Code, since he is an elected officer of a political subdivision of the state. The purchase or acquisition of fund raising services by or for the use of the school district would be a "public contract" as defined in Division (E)(1) of Section 2921.42 of the Revised Code. An officer and board member of a private firm is "interested" in the firm's contracts (See: Ohio Ethics Commission Advisory Opinions No. 81-003, 81-005, and 81-008).

Under the facts presented, the fund raising company would not be contracting directly with the school district, but rather with building principals, parent groups, and school activity sponsors. A contract with a building principal, or other school district employee in his official capacity is a public contract with the school or the school district. Also, it appears that contracts with school activity groups would be by or for the use of the school district, since the funds are administered by the school district and the money raised from these projects would be used to purchase or acquire property for school sponsored activities. However, it does not appear that most transactions with parent groups, which are private organizations, would be public contracts for purposes of Section 2921.42 of the Revised Code. In the instant case, we conclude that a contract for fund raising services with the school district, a school district employee, or a student organization would be a public contract "by or for the use of" the school district. Thus, Division (A)(1) of Section 2921.42 of the Revised Code prohibits the school board member from authorizing, voting, or otherwise using the authority or influence of his office to secure a fund raising contract between his private firm and a building principal or school activity group in his school district. In addition, Division (A)(4) of Section 2921.42 of the Revised Code prohibits him from having an interest in the profits or benefits of a fund raising contract with a building principal or school activity group for the use of a school in the district. Section 2921.42 of the Revised Code does not, per se, prohibit an officer and part owner of the private fund raising company from serving on the board of education in the school district, but it would limit his business dealings in the jurisdiction.

The conclusions of this opinion are based on the facts presented, and are limited to questions arising under Chapter 102. and Section 2921.42 of the Revised Code.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that: (1) The Ohio Ethics Law and related statutes do not, per se, prohibit an officer and part owner of a private company that sells fund raising services to building principals, parent groups, and school activity sponsors in school districts from serving as a member of a board of education; (2) Division (A)(1) of Section 2921.42 of the Revised Code prohibits a school board member who is an officer and part owner of a private company that sells fund raising services from authorizing, voting, or otherwise using the authority or influence of his office to secure approval of a contract with a building principal or school activity group in his district; and (3) Division (A)(4) of Section 2921.42 of the Revised Code prohibits a school board member who is an officer and part owner of a private company that sells fund raising services from having an interest in the profits or benefits of a contract with a building principal or school activity group for the use of the schools in his district.


Robert Y. Farrington, Chairman
OHIO ETHICS COMMISSION