



## OHIO ETHICS COMMISSION

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September 26, 1997

Informal Opinion 1997-INF-0926-1

Philip C. Richter, Executive Director  
Ohio Elections Commission



Dear Mr. Richter:

You have asked whether the Ohio Ethics Laws and related statutes prohibit a member of the Ohio Elections Commission from hearing or ruling upon matters pending before the Elections Commission under three circumstances. Specifically, you ask the following questions, as stated in your request:

1. Does the fact that a contribution was made by a member of the Commission to a campaign committee of a candidate for public office prior to the member's appointment to the Commission preclude that member of the Commission from hearing a matter that comes before the Commission that concerns the candidate?
2. Is a member of the Commission precluded from ruling on a matter that comes before it that involves the person responsible for the appointment of that member to the Commission or any other board, commission, committee, task force, or other public body which may have a fiscal dependency on the person?
3. Is a member of the Commission precluded from ruling on a matter that comes before it when that member has been invited to and/or attended functions hosted by, organized by, or at the residence of the person responsible for the appointment of that member to the Commission or any other board, commission, committee, task force, or other public body which may have a fiscal dependency on the person?

In general response to these questions, and as more fully explained below, the Ethics Law does not prohibit a member of the Elections Commission from hearing or ruling upon matters that pertain to an individual to whom the member made a campaign contribution prior to the member's appointment to the Elections Commission, or that pertain to an individual who is responsible for the member's appointment to the Elections Commission, or to another public body, when the Commission or other public body may have a fiscal dependency upon the person. Further, under the circumstances you have described, the Ethics Law does not prohibit a member of the Elections

Commission from hearing or ruling on matters that pertain to an individual who is responsible for the member's appointment to the Elections Commission or to another public body, when the Commission or other public body may have a fiscal dependency upon the person, where the member has attended functions at the appointing authority's residence, provided that the attendance by the member transpired prior to his appointment or prior to the time he could reasonably foresee matters involving the official coming before the Commission.

### **The Ohio Elections Commission**

In order to consider your questions, it is necessary to understand the powers and authority of the Ohio Elections Commission. The Ohio Elections Commission is a bi-partisan seven-member commission. R.C. 3517.152(A)(1). Six members are appointed by the Governor from two lists prepared by legislative leaders. Id. The speaker of the house and the leader of the senate of the political party of which the speaker is a member jointly provide a list of five persons. Id. Another list of five persons is prepared by the leaders of both houses of the General Assembly who belong to the political party of which the speaker of the house is not a member. Id. The six members appointed by the Governor select the seventh member who is not affiliated with a political party. Id.

An Elections Commission member may not serve more than one full term unless the terms are not served consecutively. R.C. 3517.152(E). Members receive reimbursement for their expenses while performing Commission business and receive twenty-five thousand dollars per year in compensation. R.C. 3517.152(D). Members of the Elections Commission are restricted in their ability to engage in personal political activity. See R.C. 3517.152(F). Specifically, a member must not hold, or be a candidate for, any public office, or serve on a committee supporting or opposing a candidate or any issue or proposition. R.C. 3517.152(F)(1). A member is also prohibited from soliciting or being involved in soliciting contributions on behalf of a candidate, campaign committee, political party, or political action committee. Id. In addition, a Commissioner is prohibited from making a contribution to, or for the benefit of, a campaign committee, a committee in support of or in opposition to a ballot question or issue, a political party, a legislative campaign fund, or a political action committee. R.C. 3517.152(F)(2). The Commission meets at the call of the Chairman or upon written request of a majority of the members. R.C. 3517.152(G)(2).

Generally, the Elections Commission's statutorily prescribed duty is to administer and aid in the enforcement of certain provisions of the Ohio Revised Code pertaining to campaign contributions and expenditures and unfair campaign practices. The Commission is empowered to render advisory opinions regarding sections under its jurisdiction for persons who are, or whose actions are, subject to regulation by the Commission. R.C. 3517.153(D). The Commission's responsibility also includes investigation of alleged violations of Sections 3517.08 to 3517.13 (involving campaign contributions and expenditures, campaign committees and campaign treasurers, corporate political action committees, and solicitors of political contributions), 3517.17, and 3517.18 (involving distributions and uses of funds from the Ohio Political Party Fund) of the Revised Code.

If the Commission finds that a violation of the statutes under its jurisdiction has occurred, then it may do one of the following: (1) enter a finding that good cause has been shown for not imposing a fine or reporting its finding to the appropriate prosecutor; (2) impose a fine; (3) report its finding to the appropriate prosecutor. R.C. 3517.155.

**General Conflicts of Interest--R.C. 102.03(D) and (E)**

Your questions raise the application of the general conflicts of interest provisions of the Ethics Law, set forth in Chapter 102., Revised Code Sections 102.03(D) and (E), which read:

- (D) No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.
- (E) No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

A "public official or employee" is defined for purposes of R.C. 102.03 to include any person who is elected or appointed to an office of a "public agency," including a commission established within state government, such as the Ohio Elections Commission. R.C. 102.01(B) and (C). A member of the Elections Commission is a public official for purposes of R.C. 102.03(D) and (E).

The term "anything of value" is defined for purposes of R.C. 102.03 in R.C. 1.03 to include money and every other thing of value. R.C. 102.01(G). A regulatory decision by a public agency that affects the commercial or economic status of a regulated or interested party is a thing of value for purposes of R.C. 102.03(D) and (E). Ohio Ethics Commission Advisory Opinions No. 86-007 and 93-016.

Prior to 1986, Division (D) of Section 102.03 prohibited a public official or employee from using his official position to secure anything of value for himself if the thing of value were of such a character as to manifest a substantial and improper influence upon him with respect to his duties. See generally Adv. Op. No. 85-006. Am. Sub. H.B. 300, effective September 17, 1986, amended R.C. 102.03(D) to delete the requirement that the thing of value be for the public official or employee himself. Therefore, a public official or employee is prohibited from using his public position, in any way, to secure anything of value, for himself or anyone else, if the thing of value is of such a character as to manifest a substantial and improper influence upon him with respect to his duties. Adv. Ops. No. 87-004 and 88-004. Similarly, R.C. 102.03(E), which was enacted as part of Am. Sub. H.B. 300, prohibits a public official or employee from soliciting anything of value, for himself or anyone else, if the thing of value is of such a character as to manifest a substantial and improper influence upon him with respect to his duties.

Generally, the Ethics Commission had held that a public official or employee is prohibited, by R.C. 102.03(D) and (E), from soliciting, accepting, or using the authority or influence of his position to secure a thing of value for another party if the relationship between the public official or employee and the other party is such that his objectivity and independence of judgment could be impaired with regard to the matters that affect the interests of that party. The Ethics Commission has held that public officials and employees are prohibited from participating in regulatory matters that affect the private pecuniary interests of the public official or employee making the decision, his business associates, or family members. Adv. Ops. No. 88-004, 88-005, 89-005, and 89-008.

In applying R.C. 102.03(D) and (E) to situations involving these parties, the Ethics Commission has explained that a public official or employee must exercise his official duties without hindrance by any improper influence. Adv. Op. No. 89-010. These statutes prohibit a public official or employee from participating in any matters where the official would have an inherent conflict of interest such that his objectivity and independence of judgment with regard to his official decisions and responsibilities could be impaired. Adv. Op. No. 91-004. A public official or employee is prohibited from participating in any way, including voting, discussing, deliberating, recommending, lobbying, using his position of authority over other public officials or employees, or taking any other official action, formally or informally, on these matters. See generally Adv. Op. No. 90-003. These prohibitions serve the public interest in effective, objective, and impartial government by preventing the creation of a situation that may impair the objectivity and independence of judgment of a public official or employee, and, therefore, the effectiveness of the public agency with which he serves. Adv. Ops. No. 89-014 and 90-002. The application of R.C. 102.03(D) and (E) are dependent upon the facts and circumstances of each individual situation. Adv. Ops. No. 87-007 and 89-003.

### **Campaign Contributions Prior to Appointment**

In your first question, you ask whether a member of the Elections Commission may hear matters that pertain to an individual to whom the member made a campaign contribution prior to the member's appointment to the Elections Commission. For purposes of this question, and the others that you present, it is assumed that the individual who has a matter pending before the Commission is neither a family member nor a business associate of the Elections Commission member.

The issue in the instant situation involves past activity entered into before the individual became a member of the Elections Commission. In fact, it should be noted that, as stated above, a member of the Elections Commission is prohibited by R.C. 3517.152(F) from actively participating in campaign fundraising by, among other things, making a contribution to a campaign committee, a committee in support of or in opposition to a ballot question or issue, a political party, a legislative campaign fund, or a political action committee. Thus, it is apparent that the General Assembly recognized the potential conflict that could ensue if a member of the Elections Commission were to make campaign contributions, or otherwise actively participate in campaign fund raising, during his service on the Commission.

Generally, the Ethics Commission has held that the past activity of a public official does not create a conflict of interest, for the official, if he acts on matters that affect parties involved in the past activity. See Adv. Ops. No. 90-011 (R.C. 102.03(D) does not prohibit a city council member from participating in a matter presented to council by a former client of his law firm or law partner, provided that there is no ongoing relationship between the party and his law firm or law partner) and 92-004 (R.C. 102.03(D) does not prohibit a sheriff or deputy sheriff from doing business with the Buckeye State Sheriff's Association after he ceases to serve as an officer or director of the Association). The Commission has concluded that the possibility of a conflict of interest for a public official or employee, in matters that affect individuals with whom he formerly had a relationship, is remote. Id. In this case, R.C. 102.03(D) does not prohibit a member of the Elections Commission from participating in matters that pertain to an individual to whom the member made a campaign contribution prior to the member's appointment to the Elections Commission.

This conclusion would, however, be different if the matter pending before the Elections Commission involved a contribution that had been made by the member. As stated above, R.C. 102.03(D) and (E) prohibit a public official from participating in a matter that affects his own interests, or those of a family member or business associate. If the matter pending before the Elections Commission directly involves a contribution made by the member, or by a member of his family or a business associate, such that the economic interests of any of these parties would be affected by the decision, then R.C. 102.03(D) would prohibit the member from participating in the matter.

#### **Participating in Matters affecting Appointing Authority**

In the first part of your second question, you ask whether a member of the Elections Commission may rule upon matters that pertain to an individual who is responsible for the member's appointment to the Elections Commission, or another public body, which may have a fiscal dependency upon the appointing authority.

In Advisory Opinion No. 89-008, the Ethics Commission held that R.C. 102.03(D) prohibits a public official from participating in matters that affect the interests of his employer. The Commission stated that:

An employer holds a position of power and authority over the hiring, compensation, discipline, and termination of its employees. A [public official] who is in the position of making an official decision regarding the pecuniary interests of his . . . employer would have an inherent conflict of interest impairing the [public official's] independence and objectivity of judgment.

Adv. Op. No. 89-008.

Your question does not involve an employer-employee relationship, but rather involves the relationship between an appointing authority and the individuals he appoints. The level of control exercised by an employer over his employee differs from the level of control exercised by an appointing authority over an individual he appoints to a public body. In State ex rel. The S. Monroe Co. v Baker, 112 Ohio St. 356 (1925), the Ohio Supreme Court examined the level of control an appointing authority exercises over the individuals he appoints to public offices when it considered "whether the Governor may control the discretion and judgment of the other executive officers of the state government." In Baker, the Governor had issued several executive orders to state administrative directors with respect to the rejection and awarding of state contracts and payment therefor. In describing the Governor's relationship to the administrative directors, the Court held:

We are of the opinion that the supreme executive authority means the highest authority; that is to say, there is no other authority pre-eminent or of equal eminence. It does not mean that all executive authority is lodged in the Governor, neither does it mean that "supreme authority" is autocratic, absolute, or arbitrary. Such a construction would be inconsistent with the theory and the purpose of our republican institutions. It would be contrary to the traditions of American democracy. The Governor's authority is supreme in the sense that no other executive authority is higher or authorized to control his discretion, where discretion is lodged in him, and yet it is not supreme in the sense that he may dominate the course and dictate the action and control the discretion of other executive officers of inferior rank acting within the scope of the powers, duties, and authorities conferred upon them respectively. . . . It is the policy and the spirit of our institutions that every executive officer is invested with certain powers and discretion, and within the scope of the powers granted and discretion conferred his dictum is supreme and his judgment is not subject to the dictation of any other officer. If he does not proceed according to law, or if he exceeds the power conferred, safeguards are in all instances provided for guiding or restraining his action.

...

State officials in the executive departments are not in any sense deputies of the Governor, but, on the contrary, possess powers and are charged with duties and have independent discretion and judgment entirely beyond his control, except in those instances, where it is otherwise provided. . . .

...

The Governor has such power as has been conferred by the Constitution and by the Legislature, and such incidental powers as may be necessary to carry into effect the powers expressly conferred, and all other executive officers of the state government likewise have powers and authority which have been conferred by the Constitution

and by the Legislature, and each independent of the other; and the Governor may not control the discretion and judgment of any state officer within the limits of the power conferred upon such officer, unless the power of review or the requirement of approval has been imposed in the act which creates such other state office and defines his powers. (Emphasis added.)

112 Ohio St. 356, 366-68, 371. See also 195 OAG No. 1868, p. 157.

To determine whether the independent discretion of a member of the Elections Commission would be impaired with respect to decisions involving the authority that appointed him to his public position, pursuant to R.C. 102.03(D), it is necessary to determine whether the level of authority exercised by the appointing authority over a member of the Elections Commission is more similar to that of an employer over an employee or to that described in Baker.

Under Ohio law, a person who holds an "office" is an "officer." In the case of Muskingum County Democratic Executive Committee v. Burrier, 31 Ohio Op. 570 (C.P. Muskingum County 1945), the Court held: "The terms 'officer' and 'office' are paronymous, and in their original and proper sense, are to be regarded as strictly correlative." See also Adv. Op. No. 85-005.

The Ethics Commission, in Advisory Opinion No. 74-007, stated that a test to establish whether an individual is "appointed to an office" is whether the person: (1) is appointed; (2) has a title; (3) exercises a function of government concerning the public; and (4) is not subject to a contract of employment. The Commission emphasized that no one indicator controls and combinations of factors will determine whether a person is deemed to hold an office. Adv. Op. No. 75-004. This test was modified in Advisory Opinion No. 75-004 when the Commission added the requirement that the person exercise the "sovereign power" of government as an additional and essential criterion. The Commission explained "sovereign power" as:

The concept of sovereign power originates with the idea that the office is created by public authority, be it executive order, the Constitution or some statute. Furthermore, it has been held that "if a man is placed in a position which is continuous and permanent and has certain powers which, under the law, only he can exercise; then he has sovereign power delegated to him." Shaw v. Jones, 40 O.N.P. 372 (1897).

Adv. Op. No. 75-004. In Advisory Opinion No. 77-004, the Commission held that "[s]overeign power includes the exercise of a duty entrusted to one by virtue of statute or some other public authority, a duty that is not merely clerical, but that involves discretionary, decision-making qualities." See also Adv. Op. No. 85-005, State ex rel. Landis v. Butler, 95 Ohio St. 157 (1917).

Applying the test set forth above to determine whether members of the Elections Commission are appointed to a public office, it is clear that members of the Commission: (1) are appointed (R.C. 3517.152 (A)(1)); (2) have the title of Member of the Elections Commission; (3) exercise a function of government concerning the public through the administration and enforcement of Revised Code provisions pertaining to campaign contributions and expenditures and unfair campaign practices; and (4) do not serve subject to a contract of employment. Most importantly, it is clear that the Elections Commission and its members exercise the sovereign power of the state through the performance of duties, with respect to the administration and enforcement of the elections law, that are entrusted to the Commission and its members by virtue of statute and that involve discretionary, decision-making qualities. R.C. 3517.08-3517.13, 3517.17 and 3517.18. Accordingly, a member of the Elections Commission is "appointed to a public office," and does not hold a position of employment.

Each member of the Elections Commission holds a public office and together they exercise the independent sovereign authority of the Commission, which is conferred by the Legislature. The sovereign authority exercised by the Commission is not subject to the review or approval of the appointing authority. On the contrary, as the Supreme Court determined in Baker, Commission members, like other persons appointed to public office, "possess powers and are charged with duties and have independent discretion and judgment entirely beyond [the] control" of their appointing authority. 112 Ohio St. 356, 366-68, 371. The relationship between a member of the Elections Commission and his appointing authority, where the individual who appoints the member does not have the authority to review or approve the exercise of the member's duties, while significant, is not similar to an employer-employee relationship, and is not of such a character that the Commission member's objectivity and independence of judgment would be impaired with respect to matters affecting his appointing authority. R.C. 102.03(D) does not, where the appointment has already been made, prohibit a member of the Elections Commission from participating in matters that pertain to an individual who is responsible for the appointment of the member to the Commission, or to another public body, if the relationship between the appointing authority and the member is similar to the relationship described above.

This conclusion is based on the facts that you have presented, in which the appointing authority has, in no way, used his position over the member or over the finances of the public body the member serves in order to influence the member's decisions. As the appointing authority is, himself, a public official or employee, R.C. 102.03(D) and (E) would prohibit him from soliciting, or using his position of authority in any way to secure, a favorable decision by the Elections Commission. Consequently, if the appointing authority were to use, or threaten to use, his position in any way to secure a favorable decision, the relationship between the Elections Commission member and his appointing authority would then be of such a character that the member's objectivity and independence of judgment would be impaired with respect to matters affecting his appointing authority. R.C. 102.03(D) and (E) could then prohibit the member from hearing or ruling on matters affecting the appointing authority.

### **Fiscal Dependency of Public Body**

In the remaining portion of your second question, you ask whether a member of the Elections Commission may rule upon matters that pertain to the person who appointed the member to the Commission, or another public body, when the Commission or other public body may have fiscal dependency upon the person.

The Commission has concluded that R.C. 102.03(D) prohibits a public official or employee from participating in matters that affect the interests of another person who holds a position of power and authority over the public official's or employee's compensation or other financial interests. Adv. Op. No. 89-008. Members of the Elections Commission receive compensation for the performance of their official duties. However, the appointing authority for the Elections Commission has no discretion to determine whether a member is entitled to receive compensation, or the amount of compensation he receives, for his service. Generally, the compensation of members of state boards and commissions is established by statute, which provides either an annual amount or a per diem. See, e.g., R.C. 102.05 ("Each member [of the Ohio Ethics Commission] shall be paid seventy-five dollars for each meeting held in the discharge of his official duties"). The amount of compensation received by a member of the Elections Commission is established by statute. R.C. 3517.152(D). Thus, in the normal course of events, the appointing authority is unable to affect the personal pecuniary interests of an individual who has been appointed to the Elections Commission. The same result is true for any other public position, in which the salary is set by statute and is not subject to the discretion of the appointing authority.

Accordingly, the R.C. 102.03(D) prohibition against a public official or employee participating in matters that affect a party with authority over the official's or employee's own compensation, such as an employer, would not apply in the situation you have presented. However, you have stated that the Commission itself "may have a fiscal dependency on the person." The issue then becomes whether the appointing authority's ability to participate in funding decisions affecting the Elections Commission or another public body, even though the appointing authority cannot affect the compensation paid to the official or employee, creates an improper influence upon the member if he is faced with a matter involving the appointing authority.

In Advisory Opinion No. 89-002, the Ethics Commission held that the receipt of a thing of value by and for the use of a public agency is not of such a character as to manifest an improper influence upon the officials and employees of that agency, so long as no official or employee benefits personally. The Elections Commission is funded in order for it to perform its statutorily mandated duties. Except for the compensation received by members of the Elections Commission, which is fixed by statute, the Elections Commission budget is for the accommodations, personnel, and supplies of the Commission. While it is possible that the workload of the members of the Elections Commission may be eased and its functioning may be expedited by a generous funding, an increase or decrease in funding will not provide a definite and direct, personal pecuniary benefit to individual members. See generally Adv. Op. No. 90-004.

Therefore, the fact that the Elections Commission may have a fiscal dependency on the appointing authority does not create an improper influence upon a member, if he is faced with matters that involve the appointing authority, such that he would be prohibited from participating in the situation you have presented. Again, this conclusion is based on the facts that you have presented, in which the appointing authority has, in no way, used his position over the member or over the finances of the public body the member serves in order to influence the member's decisions. If the appointing authority used or threatened to use his position over the finances of the public body in order to influence the member's decisions, the relationship between the Elections Commission member and his appointing authority would then be of such a character that the member's objectivity and independence of judgment would be impaired with respect to matters affecting his appointing authority. R.C. 102.03(D) and (E) could then prohibit the member from hearing or ruling on matters affecting the appointing authority.

### **Invitations to Functions**

In your third question, you ask whether a member of the Elections Commission may rule upon matters that come before it when that member has been invited to and/or attended functions hosted by, organized by, or at the residence of the individual to who is responsible for the member's appointment to the Elections Commission or to another public body, when the Commission or other public body may have a fiscal dependency upon the person. The Commission assumes that the matters before the member would involve the person who is the appointing authority, the same person upon whom the public body has a fiscal dependency.

Generally, the Ethics Commission has held that R.C. 102.03(E) prohibits a public official from receiving substantial gifts, or other things of a substantial value, from a party that is interested in matters before, regulated by, or doing or seeking to do business with his public agency. Adv. Ops. No. 82-005, 86-003, 92-015, and 95-001. The Commission has explained the receipt of a substantial gift or other thing of substantial value from a party that is interested in matters before, regulated by, or doing or seeking to do business with his public agency could impair the objectivity and independence of judgment of an official in future decisions regarding the interested or regulated party, or vendor. Adv. Ops. 86-011 and 92-018. The meals and refreshments provided at a function at a residence have value, but these values may vary greatly. See generally Adv. Op. No. 96-003. Therefore, the question as to whether the value of a function, or functions, is substantial will depend on the facts and circumstances of each individual situation. Id. For purposes of this opinion, the Commission assumes that the value of a function, or the cumulative value of the functions, is substantial.

As stated above, the Ethics Commission has generally held that past activity does not create a conflict under the Ethics Law. Therefore, any functions that the Elections Commission member attended prior to his appointment, or prior to the time he could reasonably foresee that a particular matter involving the appointing authority would come before the Elections Commission, would not subject the member to the prohibition imposed by R.C. 102.03(E). Adv. Op. Nos. 89-002 and 90-011. Accordingly, R.C. 102.03(E) does not prohibit a member of the Elections Commission, who has been invited to or has attended functions that are hosted or organized by, or at the home of,

the individual who is responsible for the member's appointment to the Commission or to another public body, where the functions occurred prior to his appointment or prior to the time that an issue was raised before the Elections Commission, from participating in matters pending before the Commission that pertain to the appointing authority.

However, if the Elections Commission member is invited to a function after his appointment or after he could reasonably foresee that a particular matter will be raised before the Commission, then R.C. 102.03(E) would prohibit the member of the Elections Commission from accepting the invitation to, or attending, such functions. As explained above, the receipt of a substantial thing of value from a regulated or interested individual, i.e., an individual with a matter pending before the regulative body, could impair the objectivity and independence of judgment of the official with respect to that pending matter. This prohibition would remain in effect while the matter was pending before the Elections Commission.

### **Conclusion**

The application of the Ethics Law is always dependent upon the facts and circumstances in every situation. However, generally, as more fully explained above, the Ethics Law does not prohibit a member of the Elections Commission from hearing or ruling upon matters that pertain to an individual: (1) to whom the member made a campaign contribution prior to his appointment to the Commission; (2) who appointed the member to the Commission or to another public body, when the Commission or the other public body may have a fiscal dependency upon the person; and (3) who appointed the member to the Commission or to another public body, when the Commission or the other public body may have a fiscal dependency upon the person, where the member was invited to and attended functions hosted and organized by the appointing authority, provided that the invitations or attendance transpired prior to the member's appointment or prior to the foreseeability of matters involving the appointing authority coming before the Commission. If, however, the matter before the Elections Commission directly involves a contribution made by the member, or by a member of his family or a business associate, such that the economic interests of any of these parties would be affected by the decision, then the member would be prohibited from participating in the matter.

The Commission has concluded that the Ethics Law does not require a member of the Elections Commission to withdraw from hearing or ruling on matters pending before the Commission in the situations you have described. This is not to state that the Ethics Commission summarily dismisses the obvious and inherent influence upon an appointee that is present in matters involving his appointing authority. Under the facts you have presented, however, the fact that the influence exists does not alone render it of an improper character, which would then bar a public official from objectively performing his duty under law. If, however, a member of the Elections Commission determines, in the exercise of his own best judgment, that hearing or ruling on a matter, in any one or any combination of these situations, presents an appearance of impropriety to his actions, the member may rely on that judgment and choose not to participate in the matter.

Philip C. Richter  
September 26, 1997  
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This informal advisory opinion was approved by the Ethics Commission at its meeting on September 26, 1997, with the understanding that Executive Director of the Elections Commission will discuss the opinion with the Elections Commission members. The opinion is based on the facts presented and is limited to questions arising under Chapter 102. and Sections 2921.42, 2921.421, and 2921.43 of the Revised Code and does not purport to interpret other laws or rules. If you have any further questions, please feel free to contact this Office again.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Freel". The signature is fluid and cursive, with a large initial "D" and "F".

David E. Freel  
Executive Director