



OHIO ETHICS COMMISSION

THE ATLAS BUILDING
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Advisory Opinion Number 82-003
March 4, 1982

Syllabus by the Commission:

- 1) Section 2921.42 of the Revised Code does not prohibit a school board member, whose spouse is a teacher and a member of the teachers' union in the school district, from voting on a master contract between the school district and the teachers' union.
- 2) Division (A)(1) of Section 2921.42 of the Revised Code prohibits a school board member, whose spouse is a teacher in the school district, from authorizing, voting, or otherwise using the authority or influence of his office to secure approval of an individual contract with his spouse.

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You asked whether the Ohio Ethics Law and related statutes prohibit a school board member, whose spouse is a teacher and a member of the teachers' union in the school district, from voting on: 1) a master contract between the school district and the teachers' union, which establishes the terms and conditions of employment for all teachers; or 2) an individual contract with his spouse.

You stated, by way of history, that two members of the school district board of education have spouses who are teachers employed by the school district and are members, but not officers, of the teachers' union. You stated further that the board of education and the teachers' union are negotiating a new contract, which will include working conditions, holidays, salary, fringe benefits, and other terms and conditions of employment. Members of the board of education do not participate in negotiations, but the board must ratify the final contract.

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 authorization of any public contract in which he, a member of his family, or any of his business associates has an interest.

A member of a school district board of education is a "public official" (See: Ohio Ethics Commission Advisory Opinions No. 78-006 and 80-003), and a master contract between the school district and the teachers' union and an individual contract with a teacher are "public contracts" for purposes of Section 2921.42 of the Revised Code.

Previous Commission advisory opinions have held that an employee of a large firm, who has neither an ownership interest nor a fiduciary interest as an officer of the firm, is not considered to be "interested" in the contracts of the firm for purposes of Section 2921.42 (See: Ohio Commission Advisory Opinions No. 78-006, 80-003, and 81-001). In the instant case, the master contract is an agreement between the school district and the teachers' union establishing the general terms and conditions of employment for all teachers, including a general salary schedule. An individual teacher's interest in the master union contract is analogous to an employee's interest in his employer's contracts; it is not sufficiently definite and direct to invoke the prohibitions of Section 2921.42 of the Revised Code. Therefore, Section 2921.42 of the Revised Code does not prohibit a school board member, whose spouse is a teacher and a member of the teachers' union, from voting on a master contract between the school district and the teachers' union.

However, it should be noted that an officer, board member, or member of the negotiating team or committee of a teachers' union would have a sufficiently direct and personal interest in the master contract to invoke the prohibitions of Section 2921.42 of the Revised Code.

On the basis of the master contract, individual contracts are entered between the school district and each teacher, establishing the teacher's salary and other specific terms and conditions of employment. The teacher's interest in this contract is definite, direct, and pecuniary. Therefore, Division (A)(1) of Section 2921.42 of the Revised Code prohibits a member of a school district board of education from authorizing, voting, or otherwise using the authority or influence of his office to secure approval of a public contract in which a member of his family, including his spouse, has an interest.

The conclusions of this opinion are based on the facts presented, and are rendered only with regard 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) Section 2921.42 of the Revised Code does not prohibit a school board member, whose spouse is a teacher and a member of the teachers' union in the school district, from voting on a master contract between the school district and the teachers' union; and 2) Division (A)(1) of Section 2921.42 of the Revised Code prohibits a school board member, whose spouse is a teacher in the school district, from authorizing, voting, or otherwise using the authority or influence of his office to secure approval of an individual contract with his spouse.


MEROM BRACHMAN, CHAIRMAN
Ohio Ethics Commission