

August 5, 1997

Re: IO-97-133

After reviewing the facts in the above-titled inquiry, the commission has determined not to pursue enforcement proceedings against you for violations of the ethics law. Specifically, §3-101 prohibits an employee from participating in matters in which a relative may have an interest, including an employment relationship. Also, §3-104 prohibits an employee from using the prestige of his office or position for the financial benefit of himself or another.

The commission believes that your successful effort to have your [relative] hired as an employee with xxxxxx. at a time when your department had significant contractual relationships with xxxx could be considered a violation of the ethics law. At the very least, it constituted poor judgment, because it would certainly appear that you would owe a debt to xxxx for employing your [relative] . An obligation of this sort can tend to impair an employee's impartial and independent judgment. Additionally, because of your position, a frequent contractor with the county could be reluctant to refuse your request to employ your [relative], regardless of the contractor's need or your [relative]'s qualifications. Both of these possibilities detract from the arms-length dealing between county and contractor that the ethics laws are designed to ensure. The ultimate goals of the ethics laws are to maintain the impartial and independent judgment of county employees and to preserve and enhance the public trust in local government.

There is no evidence that you participated on the technical rating committee in the selection of the xxxx in any recent contracts or that any input from you was instrumental in their selection. Furthermore, you indicated that your [relative]'s employment with xxxxxx lasted 8-10 months, and terminated in [19--], when your [relative] moved out of the area. In the absence of evidence of actual harm having occurred as a result of your arranging your [relative]'s employment with xxxxxx, the Commission believes that this letter will serve the purpose of advising you that your conduct may have violated the ethics laws and that you should in the future avoid any participation in the selection process involving xxxxxx as a contractor with the county. Even though the selection process is controlled by the bidding process and selection occurs based on clearly established criteria, there is an opportunity for some subjectivity in the technical rating process and perhaps in other areas as well. It is not required that the commission (or members of the public) find specific opportunities for favoritism; rather it is the appearance that favors are owed and may be granted that is the problem with your actions.

The ethics commission also believes that your department would be well served to request ethics training from the commission staff. This service can be provided at your convenience and can be designed to address issues pertinent to your department's particular issues.

Because this letter constitutes only an informal opinion, the names and dates and any other information that would tend to identify you will be kept confidential. Only the issues discussed in this letter will be available for publication.

If you believe that this letter is inaccurate or in any way unfair, you may request a hearing with the ethics commission, or present a written response for the commission's consideration. Otherwise, the matter will be considered closed.

Sincerely,

Betsy K. Dawson, Executive Director