

February 25, 2003
Re: IO-03-14

You requested an ethics commission opinion about "areas of perceived conflicts" that may exist as to your participation in budget matters, general employee benefits, and compensation that may involve your cousin, the county purchasing agent. You stated that you want to avoid any conflicts of interest and any perception of conflicts of interest.

The Public Ethics Law includes two provisions applicable to members of the county council that prohibit employees from participating in matters in which a "relative" has an interest. See §3-101(a) and §3-102(b)(2)(iv). A "relative" is defined in §1-101(t). The definition does not extend to cousins. Therefore, there are no ethics law prohibitions on your participation in any matter in which your cousin has an interest.

Although the law does not preclude you from participating in any matter involving your cousin, there may be areas in which your participation would create an appearance of a conflict of interest. While the commission will not speculate on what those areas might be, it will provide a few factors that it considers when it balances an apparent conflict of interest with objective factors will tend to mitigate that appearance. First, the commission considers the degree of the interest held by the relative. If the interest is minimal, the appearance of a conflict of interest will be minimal also. Second, the commission considers the extent of the relative's involvement in the matter. If the relative is one of the initiators of the matter or a significant witness as to the matter, the appearance of a conflict will be greater. Third, the commission considers whether and to what extent other people have an interest in the matter. If the relative's interest is the same as the interest of all or most other employees, the appearance of a conflict will be negligible.

One factor that the commission will not consider is the quality of the family relationship, which is a purely subjective issue. Experience and evidence have shown that your personal regard for your relatives, or lack of it, are not of much practical importance in determining whether your impartiality will be affected by participating in a matter in which a relative has an interest.

In cases where you believe that your participation in a matter would create the appearance of a conflict of interest, you may choose to disclose the family relationship and refrain from participating, but the law does not impose an affirmative obligation upon you to do so.

Thank you for your inquiry.

Sincerely,

Betsy K. Dawson
Executive Director