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ADVISORY OPINION 2019 - 4

The House Legislative Ethics Committee received a request from a Member for an advisory opinion. The Member questioned whether it was a violation of the Ethics Act for he or she to directly advocate and support funding for a university in the applicable section of the General Appropriations bill when the Member's family member serves on the university's board of trustees (Board). The Member explained that the applicable Board is the final authority and the governing body of university, its colleges, outreach programs, and ancillary functions. The Member noted that the Board establishes the general policies of the university, defines educational programs, and approves annual budgets. Further, the Member reported that the Board members do not earn any compensation; they only receive a per diem and reimbursement of their actual expenses for meals and lodging. The Member stated that some Board trustees also receive access to university functions or sporting events as allowed for by the trustee's position.

Pursuant to House Rule 4.16C.(5), the Committee renders the following advisory opinion.

DISCUSSION

Pursuant to the Ethics, Government Accountability, and Campaign Reform Act of 1991, regarding conflicts of interests, S.C. Code Ann. § 8-13-700(B) provides:

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

(2) if the public official is a member of the General Assembly, he shall deliver a copy of the statement to the presiding officer of the appropriate house. The presiding officer shall have the statement printed in the appropriate journal and require that the member of the General Assembly

be excused from votes, deliberations, and other action on the matter on which a potential conflict exists.

S.C. Code Ann. § 8-13-700(B). (emphasis added). See also House Ethics Committee Advisory Opinion 92-11, which concerns potential conflicts of interests and voting on the General Appropriations bill; SEC AO2004-001 which provides regarding a conflict of interest, "Section 8-13-700(B) requires that, in the event of a conflict of interest, a public official must recuse himself from participating in certain governmental actions or decisions. The public official is prohibited from voting, deliberating, or taking any action related to the conflict."

Further, Section 8-13-100 (15) defines a "family member" as:

- (a) the spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild;
- (b) a member of the individual's immediate family.

Section 8-13-100(15).(emphasis added). The Member advised House Ethics Counsel that his or family member met the definition of a family member pursuant to the Ethics Act.

Also, Section 8-13-100(11)(a) states that "economic interest" means "an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more." In the instant scenario, the Committee finds that the Member's family member, as a Trustee for a university, is only compensated per diem, actual expenses, and access to university functions or sporting events as allowed for by the trustee's position. Thus, the Committee finds that this would not constitute an "economic interest" that would require the Member to abstain from voting on the University's section of the budget in the General Appropriations bill.

CONCLUSION

In summary, a Member, whose family member serves on a university Board, may directly advocate and support funding for the university in the applicable section of the General Appropriations bill since the Member's family member does not have an economic interest from his or her service as a trustee on the Board.

Adopted February 12, 2019.