A MATTER OF PUBLIC TRUST

A quarterly newsletter of the Pennsylvania State Ethics Commission

Summer, 2025

Conflict of interest:

"Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of ... **a member of his immediate family** or **a business with which .... a member of his immediate family is associated**." 65 Pa.C.S. 1102

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Summer is a time to focus on family. But as a public official or public employee, putting "family first" could spoil your summer plans and bring you to the attention of the State Ethics Commission.

Section 1103(a) of the Ethics Act, conflict of interest, prohibits a public official or public employee from using the authority of their position or confidential information received through holding the position, for the private pecuniary (financial) benefit of themselves, a member of their immediate family, or a business with which they or a member of their immediate family is associated.

Immediate family members include parents, spouses, children, or siblings. Businesses with which associated include businesses (and non-profits) in which the public official or public employee or a member of their immediate family is a director, officer, owner, employee, or has a financial interest.

What this means is that you, as a public official or public employee, may not take action to financially benefit your immediate family members. For example, you may not hire your child for a job at your governmental body. You may not select your spouse's employer as a vendor. You may not approve grant funds to a nonprofit where your parent serves as a volunteer board member.

If faced with these situations, you must abstain from all participation and in some instances meet additional disclosure requirements.

Family is important, but don't spoil your summertime by putting "family first" when it comes to your governmental body.

LESSONS LEARNED FROM RECENT COMMISSION CASES

Don’t fire a Township employee and then hire your brother to the open position you’ve created.

A Township Supervisor unilaterally terminated the employment of a Township road crew employee, instructed the Township Secretary/Treasurer to advertise for the vacant position, selected his brother and another candidate for interviews for the vacant position, participated in the interviews, and hired his brother for the vacant position without formal action or approval of the Board of Supervisors. The Supervisor also voted to reappoint himself to a compensated position on an Authority Board, which resulted in him receiving approximately $1,351.50 in credits to his personal sewage account. In his position as an Authority Board Member, he also approved Authority budgets that included yearly pay raises for himself totaling $2,295.00. As a result of a negotiated settlement, he was required to pay $3,646.50 representing the sewer credits and pay raises. Barton, Order No. 1843.

MORE LESSONS LEARNED FROM RECENT COMMISSION CASES

Don’t approve funding for a non-profit that employs your daughter.

A Borough Council Member who also served on the Borough Finance Committee participated in the process that reviewed, considered, and approved applications for grant funds made by a non-profit that employed his daughter. Ultimately, the Borough dispersed approximately $277,835 in grant funds to the non-profit. As part of a negotiated settlement, the Borough Council Member agreed that if the matter went to hearing, the Commission’s Investigative Division could meet its evidentiary burden that a violation of the conflict of interest provision occurred when the Borough Council Member participated in discussions and actions of Borough Council to disburse the funds to the non-profit that employed his daughter. Rudnitsky, Order No. 1844.

The below article, written by State Ethics Commission Assistant Counsel Julie Karabin, appeared in Volume 46, Issue 1 of the 2025 COGEL Guardian Magazine.

COGEL - the Council on Governmental Ethics Laws - is a professional organization for government agencies and other organizations working in ethics, elections, freedom of information, lobbying, and campaign finance.

The article is reproduced in its entirety below.

Nepo-Babies: Not Just a Hollywood Problem

By Julie Karabin, Assistant Counsel for the Pennsylvania State Ethics Commission

Recently, certain members of the Hollywood elite - known as "nepo-babies" - have come under fire for receiving special treatment or getting further along in their careers because they have a parent or other family member in the industry to help them get ahead. While it is obvious that having a famous director for a father might help to advance your music career, Hollywood is not the only industry where nepo babies receive special advantages.

Pennsylvania's Ethics Act is, in part, an anti-nepotism statute. It defines a "Conflict of Interest" as, "use by a public official or public employee of the authority of his office or employment... for the private pecuniary benefit of...a member of his immediate family or a business with which...a member of his immediate family is associated." 65 Pa.C.S. § 1102. The Ethics Act defines "immediate family" as a parent, spouse, child, brother, or sister. Id. The Act was created for the purpose of promoting public trust and creating a way for public officials/ employees who violate that trust to be held accountable. Case law shows, however, that in some instances (just like Hollywood) the only recourse may be public awareness.

In the case of Sivick v. SEC, Mr. Sivick was charged with violating the Ethics Act when, as a township supervisor, he advocated - but abstained from voting - to get rid of a township nepotism policy so that the township could hire his son for an available position. The other supervisors voted to eliminate the nepotism policy, and the township ultimately hired Mr. Sivick's son and paid him income for over three years. The Commission found several violations of the Ethics Act, which were then affirmed by one of Pennsylvania's intermediate appellate courts. On appeal to the Supreme Court of Pennsylvania, the court boiled down the case to a few main issues including whether restitution can be ordered when the individual receiving income as a result of a public official/employee's use of office is not the public official/employee themselves.

The Supreme Court held that "... restitution under the Ethics Act may be imposed only upon public officials and employees who themselves gain financially by violating the Ethics Act, not upon those who divert improperly obtained moneys to members of their immediate families." Not only should restitution not be paid by the immediate family member, but the public official/employee should not have to pay restitution either. So, in situations where the financial benefit is only received by a family member and a financial benefit cannot be tracked back to the public official/employee themselves, there will be no restitution paid. As an administrative agency with already very few tools for retribution, this ruling presents an interesting challenge when seeking justice against those who abuse their public office to help their own "nepo baby".

GET TO KNOW US:

ROBERT P. CARUSO, COMMISSIONER

Commissioner Caruso was appointed as a Member of the State Ethics Commission on January 10, 2023, by Governor Tom Wolf.

Commissioner Caruso was employed by the Commission from 1982 until retiring in April 2022, and was the longest tenured employee in Commission history. Mr. Caruso held a number of positions with the Commission's Investigative Division including Special Investigator, Director of Investigations and Deputy Executive Director. He was named the Commission's Executive Director in January 2013 and served in that capacity until his retirement.

"Being a part of the Commission since its infancy in multiple positions, culminating as Executive Director, has been one of the most rewarding experiences of my life. Now, serving as a Commissioner with a group of honorable Members and a dedicated and experienced staff is a great honor. I can't think of a better way to further my career of government service."