

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

IC 4-2-6-9(a) Conflicts of interest

SEC found there was no conflict of interest for the executive secretary of the IURC if her husband was an associate of a law firm which practiced before her agency, provided that her husband himself did not practice before the IURC.

**91-I-22: Conflict of Interest
Indiana State Ethics Commission
Official Advisory Opinion
(Decision October 10, 1991)**

FACT SITUATION

The executive secretary of the Indiana Utility Regulatory Commission's (IURC) husband had been hired by a local law firm. The law firm regularly practiced before the IURC. The executive secretary's husband would not do any utility regulatory law and, in fact, was to be physically located on another floor in the law firm from those who did practice before the IURC. The executive secretary's functions were administrative and included budgeting, purchasing, accounts payable, accounts receivable, maintenance of office files, copy machine operations, and receptionist duties. All documents to be filed with the Commission were filed with the executive secretary's office. Additionally, the executive secretary prepared agendas for the Commission's conferences (meetings in which the Utility Regulatory Commissioners voted on orders), weekly dockets (a schedule of the hearings to be held), and minutes of IURC meetings.

The executive secretary did not come into possession of any confidential information. Once a pleading was filed with the IURC and the case began, the administrative law judge and the individual commissioner had total control of the case. The IURC limited access to confidential information to the administrative law judge and commissioner involved, and no other commissioner or technical staff person was allowed access to that confidential information without the direct decision of those two. In order to make that decision, the parties involved had input. Others were only allowed to look at confidential information for good cause shown. None of that involved the executive secretary. All such information was physically kept under lock and key at an entirely different area of the office than the area of the executive secretary. Neither the executive secretary nor any of her staff ever had any access to confidential information that came through the case process. Any information that the office of the executive secretary would have received was public information.

The executive secretary had no discretion to deny the filing of a petition, to make a decision whether information was to be public or not, or to decide when matters were to be scheduled. The executive secretary was responsible for handling notices, publishes notice in the paper, and advising counsel when a matter was set. Executive Order 4-83 issued by Governor Orr, which is a Code of Ethics for the Indiana Utility Regulatory Commission, exempted IURC staff whose functions were ministerial as opposed to non-ministerial from being responsible for the same standard of conduct and responsibility required of commissioners.

QUESTION

Is there a conflict of interest for the executive secretary of the Indiana Utility Regulatory Commission if her husband is employed by a law firm which practices before the Indiana Utility Regulatory Commission?

OPINION

The Commission found no conflict of interest for the executive secretary of the Indiana Utility Regulatory Commission if her husband was an associate of a law firm which practices before the

Indiana Utility Regulatory Commission, provided that her husband did not practice before the IURC.

The relevant statute is as follows:

IC 4-2-6-9, on Conflict of financial interest provides, "(a) A state officer or employee may not participate in any decision or vote of any kind in which the state officer or the employee or that individual's spouse or unemancipated children has a financial interest."