

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 Consequently, the analysis reflected in the opinion may be outdated.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 4-15-7-1 Nepotism

An IPLA employee had worked her way into the position of Director of Finance before marrying the son of IPLA's director. SEC found there would be no violation of the Nepotism rule for the employee to seek a promotion within the agency since she would not be directly supervised by her father-in-law, although the Commission did ask the director to recuse himself from having any input into the promotional process when his daughter-in-law was involved.

No. 04-I-2 Nepotism
Indiana State Ethics Commission
Official Advisory Opinion
March 11, 2004

Background

A state employee has been employed at the Indiana Professional Licensing Agency (PLA) for approximately ten years. She worked her way up the ranks from a clerical position to director of finance. Because of a modified merger with the Health Professions Bureau (HPB) that occurred within the last year, she has assumed a different, but related role with the HPB. Technically, however, she is still employed by PLA because PLA provides the funding for her salary and the objective of the modified merger is to combine the two agencies into one.

The state employee may be interested in applying for a position as an assistant board director. The PLA employs four board directors and four assistant board directors. Each board director is responsible for the oversight of boards that regulate the licensure of various professionals. The position that the state employee is interested in pertains to the regulation of accounting and boxing.

On December 24, 2003, the state employee married the son of the director of the PLA. The question before the Commission is, under the Indiana Nepotism statute, 4-15-7-1, can the state employee seek promotion within PLA?

Note: The Director said if necessary, he will completely recuse himself from the hiring process and will allow the deputy director to select the person for the assistant board director job. If the state employee is promoted, the Director will not directly supervise her.

Question

Is a state employee who has worked for a particular agency for more than a year eligible for a promotion if the agency head is her father-in-law?

Relevant Law

IC 4-15-7-1: Nepotism

Sec. 1. (a) No person being related to any member of any state board or commission, or to the head of any state office or department or institution, as father, mother, brother, sister, uncle, aunt, a husband or wife, son or daughter, son-in-law or daughter-in-law, niece or nephew, shall be eligible to any position in any such state board, commission, office, or department or institution, as the case may be, nor shall any such relative be entitled to receive any compensation for his or her services out of any appropriation provided by law.

(b) This section shall not apply if such person has been employed in the same position in such office or department or institution for at least twelve (12) consecutive months immediately

preceding the appointment of his relative as a board member or head of such office, department, or institution.

(c) This section does not apply to the authority of the board of trustees of a state educational institution (as defined in IC 20-12-0.5-1) to employ any person the board considers necessary under IC 20-12-1-4.

(d) No persons related as father, mother, brother, sister, uncle, aunt, husband, wife, son, daughter, son-in-law, daughter-in-law, niece, or nephew may be placed in a direct supervisory-subordinate relationship.

Conclusion

The commissioners found that it would not be a violation of the nepotism law for the state employee to receive a promotion within the Professional Licensing Agency. The commissioners noted that, if promoted, the state employee would not be directly supervised by her father-in-law. They did, however, ask the director to recuse himself from having any input into the promotional process when his daughter-in-law was involved.