



OHIO ETHICS COMMISSION

THE ATLAS BUILDING
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Advisory Opinion Number 86-005
April 10, 1986

Syllabus by the Commission:

Division (A)(4) of Section 2921.42 of the Revised Code prohibits a state employee from serving on the board of a for-profit corporation that contracts to sell goods or services to the agency with which he serves.

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You asked whether Section 2921.42 of the Revised Code prohibits an employee of the Department of Youth Services from serving on the board of a for-profit corporation that contracts to sell goods or services to his agency.

Division (A)(4) of Section 2921.42 of the Revised Code provides:

(A) No public official shall knowingly do any of the following: . . .

(4) Have an interest in the profits or benefits of a public contract entered into by or for the use of a political subdivision or governmental agency or instrumentality with which he is connected.

An employee of the Department of Youth Services (hereinafter Department) is a "public official" as defined in Division (A) of Section 2921.01 of the Revised Code, since he is an employee of the state. The Department is the "governmental agency" with which the employee is connected [See: Division (P) of Section 121.02 of the Revised Code]. The purchase or acquisition of goods or services by or for the use of the Department is a "public contract" as defined in Division (E)(1) of Section 2921.42 of the Revised Code. For purposes of Section 2921.42 of the Revised Code, an interest must be definite and direct, and may be either pecuniary or fiduciary (See: Ohio Ethics Commission Advisory Opinions No. 78-005, 81-003, 81-008, and 83-003). A member of the board of directors of a corporation has a definite, direct, fiduciary interest in the profits or benefits of the contracts of the firm, and may have a pecuniary interest through stock holdings or director's fees. Thus, Division (A)(4) of Section 2921.42 of the Revised Code would prohibit an employee of the Department from serving on the board of a for-profit corporation that sells goods or services to the Department.

This advisory opinion is based on the facts presented, and is limited to questions arising under Chapter 102. and Section 2921.42 of the Revised Code.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that Division (A)(4) of Section 2921.42 of the Revised Code prohibits a state employee from serving on the board of a for-profit corporation that contracts to sell goods or services to the agency with which he serves.



Merom Brachman, Chairman
Ohio Ethics Commission