

**INFORMAL OPINION IO-1995-004
ISSUED MARCH 13, 1995**

At your request, I have researched the following question:

Is it a violation of any Section of the Rules of the Ethics Commission, 74 O.S. Supp. 1994, Ch. 62, App., for a Senator to sponsor the confirmation of his or her son in the Senate hearing required for his confirmation to office?

As supplemental information, you state that:

1. You are not a member of the Senate committee which must vote on your son's confirmation before it goes to the full Senate.
2. You plan to recuse once the matter comes before the full Senate for a vote.

The applicable rule reads:

Votes, deliberations, and discussions by legislators or statewide elective officers

(a) A legislator or statewide elective officer shall not introduce or cause to have introduced, *request the introduction of, promote, or vote on any legislation* if the statewide elective officer or legislator or a member of the immediate family of the officer or legislator or a business or entity with which the legislator or officer or a member of the immediate family of the legislator or officer is associated has:

- (1) a pecuniary interest in; or
- (2) a reasonably foreseeable benefit from;

the legislation. A reasonably foreseeable benefit includes detriment to a business competitor to the legislator or statewide elective officer, to a business competitor of a member of the immediate family of the legislator or officer, or to a business competitor of a business or entity with which the legislator or officer or an immediate family member of the legislator or officer is associated.

257:20-1-7(a)

[emphasis added]

Relevant to this rule is the definition of "immediate family", which is defined as follows:

Definitions

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"Legislation" means a bill, resolution, amendment, nomination or other matter pending in either house of the Legislature; any other matter which may be the subject of action by either house of the Legislature, including the introduction, consideration, passage, defeat, approval or veto of the matter; or any matter pending in or which may be the subject of action by a constitutional convention.

* * *

"Immediate family" means a child under the age of eighteen (18) years residing in a state officer's or state employee's household, a spouse of a state officer or state employee, and an individual claimed by the state officer or state employee or the state officer's or state employee's spouse as a dependent for tax purposes.

257:1-1-2

The first determination is whether sponsoring confirmation of an executive nominee constitutes legislation. The constitutional rules specify that a legislator may not "introduce, request the introduction of, promote or vote on any legislation...". The definition of "legislation" includes a "nomination"; therefore, sponsoring a nomination would be deemed promoting it. Thus, that activity would come within the definition.

The second question is whether you, or a member of your immediate family, have a pecuniary interest in or would receive "a reasonably foreseeable benefit" as a result. You have stated that you personally have no pecuniary interest or a reasonable foreseeable benefit, as defined in the rule, from confirmation of your son. The next question is whether your son is a member of your immediate family. Since he is over eighteen years of age and you have said you do not count him as a dependent for tax purposes, he does not fit within the definition; therefore, he is not considered a member of your immediate family for purposes of the rule. The question of whether your son receives a pecuniary interest or reasonably foreseeable benefit would not be reached since he is not a member of your immediate family under the rule.

CONCLUSION

In conclusion, the Senate practice and/or rule whereby an executive appointee is sponsored by his local Senator in his or her confirmation does constitute legislation; however, an adult son, who is not counted as a dependent for tax purposes, is not a member of a legislator's immediate family under the rule definition of that term. Thus, your decision to sponsor your adult son's confirmation before a committee of which you are not a member would not be prohibited under Section 257:20-1-7 of the Rules of the Ethics Commission, 74 O.S. Supp. 1994, Ch. 62, App.

Please be aware that informal opinions are not official pronouncements of the Commission. Hence, this letter carries no greater weight than the views of any other citizen. The Commission is available to issue interpretations on matters arising from the Ethics Commission Act and the Constitutional Ethics Rules. These are known as Ethics Interpretations. They are official and bind the future action of the Commission.