

Advisory Opinion No. 75-11

QUESTION:

Whether (assuming said person retained the Board position) it would be appropriate to abstain from voting on any project which directly or indirectly would benefit either her or her employing institution?

RESPONSE:

It becomes a moot question in light of the Commission's response to the preceding question (75-10). The Commission further wishes to use this occasion to recall and point out that Sec. 24. 1 & 24. 3. (3) strictly forbids any official from using his official position in order to lobby etc. other public officials even though he himself may refrain from voting or acting upon the matter.

It should be noted that the position of this Commission in concluding that there would be a conflict of interest in the case of the person in question in Opinion No. 75-10 were to retain the Board position and the project director position while in Advisory No. 75-9, the Commission concluded that the Board member in question could retain his position even though in one particular instance, he might be called upon as a Board Member to pass judgement upon himself as Executive Director of a program receiving Federal funds, the Commission has been consistent in its application of the law. The situation for Advisory Opinion No. 75-9 differs from the present in several ways: 1) the legislation establishing the Board in question in No. 75-9 specifically mandated persons having that kind of interest be appointed to the board; 2) the board in Advisory Opinion No.75-9, has neither advisory nor discretionary powers over the funds to be used in the programs and, in fact, said board has no statutory powers for dealing with any funds whatsoever; 3) the statutes as to the Board in Question No. 75-9, only one kind of instance and situation in which they have decision making power; the latter is very specific and delimited; the person in question in Advisory Opinion No. 75-9 in this sole instance would be in conflict of interest; this commission directed that he should abstain from action if he were to be the object of the Boards use of this statutory discretionary power. It was the conclusion of this commission that the confidence of the public in their government officials would be safeguarded in the case of Opinion No. 75-9 if the said official were to abstain from voting should that particular situation come up; on the other hand, it was felt that the situation of the person in question in 75-10 could not be so clearly delineated; and that, therefore, mere abstention from voting would not clarify the matter.

November 14, 1975.