

**STATE OF NEW HAMPSHIRE  
EXECUTIVE BRANCH ETHICS COMMITTEE**



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David L. Nixon, Chairman  
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Patricia B. Quigley  
Deborah J. Schachter  
Karol A. Lacroix

**Advisory Opinion**

**2007-013**

**Question Presented**

Do the ethics laws prohibit an executive branch official from participating in regulatory activities relative to a non-profit or charity when a spouse or dependant serves as a board member or is a paid employee of the non-profit or charity?

**Summary Answer**

Yes.

**Facts**

Executive branch officials in certain departments regulate non-profit and charitable non-profit organizations and businesses or events they conduct. The character of the regulation varies from direct oversight of the creation and maintenance of the organizations and their finances to indirect regulation such as inspecting food service or facilities at a non-profit.

**Legal Authority**

RSA 21-G:21, II; RSA 21-G:22

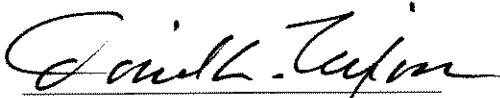
## Analysis

The conflict of interest statute, RSA 21-G:22, requires executive branch officials to avoid conflicts of interest. A conflict of interest is a "situation, circumstance or financial interest which has the potential to cause a private interest to interfere with the proper exercise of a public duty." RSA 21-G:21, II. Executive branch officials are also prohibited from participating "in any matter in which they, or their spouse or dependents, have a private interest which may directly or indirectly affect or influence the performance of their duties." RSA 21-G:22. When a spouse or dependent serves as a board member for a non-profit or charity they have governing authority over and a fiduciary duty to the organization, which constitutes a private interest. A spouse or dependent who is a paid employee of a non-profit or charity have a financial interest in the non-profit or charity as a result of that employment, which is a private interest. Such interests, generally, are significant enough that they have the potential to at least indirectly influence the performance of the executive branch official's duties.

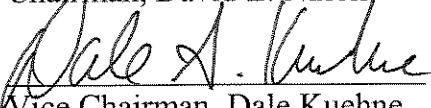
## Conclusion

An executive branch official who regulates non-profits or charities must recuse himself or herself from participating in any manner in the regulation of a non-profit or charity when a spouse or dependent serves as a board member or is a paid employee of the non-profit or charity.

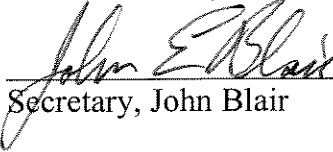
This Advisory Opinion is issued by the Executive Branch Ethics Committee on September 5, 2007, pursuant to RSA 21-G:30, I (c).



Chairman, David L. Nixon

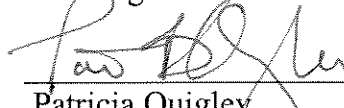


Vice Chairman, Dale Kuehne



Secretary, John Blair

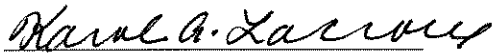
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