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ETHICS ADVISORY OPINION NO. 26-003-E

March 6, 2026

Question Presented: May the city council hire the financially dependent child of a council member?

Brief Answer: No. A common financial interest shared by a council member and another person, in this case a child, may give the council member a prohibited interest in the child's income. Because the council member and the child live in the same household, the parent and child are not financially independent, and the child may not be employed by the city, pursuant to Section 109, Miss. Const. of 1890, and Section 25-4-105(2), Miss. Code of 1972.

The Mississippi Ethics Commission issued this opinion on the date shown above in accordance with Section 25-4-17(i), Mississippi Code of 1972, as reflected upon its minutes of even date. The Commission is empowered to interpret and opine only upon Article IV, Section 109, Mississippi Constitution of 1890, and Article 3, Chapter 4, Title 25, Mississippi Code of 1972. This opinion does not interpret or offer protection from liability for any other laws, rules or regulations. The Commission based this opinion solely on the facts and circumstances provided by the requestor as restated herein. The protection from liability provided under Section 25-4-17(i) is limited to the individual who requested this opinion and to the accuracy and completeness of these facts.

I. LAW

The pertinent Ethics in Government Laws to be considered here are as follows:

Section 109, Miss. Const. of 1890.

No public officer or member of the legislature shall be interested, directly or indirectly, in any contract with the state, or any district, county, city, or town thereof, authorized by any law passed or order made by any board of which he may

be or may have been a member, during the term for which he shall have been chosen, or within one year after the expiration of such term.

Section 25-4-103, Miss. Code of 1972.

(f) “Contract” means:

(i) Any agreement to which the government is a party; or

(ii) Any agreement on behalf of the government which involves the payment of public funds.

(g) “Government” means the state and all political entities thereof, both collectively and separately, including but not limited to:

(i) Counties;

(ii) Municipalities;

(iii) All school districts;

(iv) All courts; and

(v) Any department, agency, board, commission, institution, instrumentality, or legislative or administrative body of the state, counties or municipalities created by statute, ordinance or executive order including all units that expend public funds.

(o) “Public funds” means money belonging to the government.

(p) “Public servant” means:

(i) Any elected or appointed official of the government;

(ii) Any officer, director, commissioner, supervisor, chief, head, agent or employee of the government or any agency thereof, or of any public entity created by or under the laws of the state of Mississippi or created by an agency or governmental entity thereof, any of which is funded by public funds or which expends, authorizes or recommends the use of public funds; or

(iii) Any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the government.

(q) “Relative” means:

(i) The spouse of the public servant;

(ii) The child of the public servant;

- (iii) The parent of the public servant;
- (iv) The sibling of the public servant; and
- (v) The spouse of any of the relatives of the public servant specified in subparagraphs (ii) through (iv).

Section 25-4-105, Miss. Code of 1972.

(2) No public servant shall be interested, directly or indirectly, during the term for which he shall have been chosen, or within one (1) year after the expiration of such term, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member.

II. FACTS

Facts provided by the requestor are set forth below, with identifying information redacted, and are considered a part of this opinion.

I represent [the City] and in that capacity write for guidance in an employment matter that raises issues of nepotism and ethics. The relevant facts are as follows:

[The council member] took office in July 2025. On September 10, 2025, [the city] posted an advertisement in [the city newspaper] seeking applicants for a job opening in [a city department] for a "full time cashier/clerk." Said advertisement ran two more times in the newspaper, applications were received and candidates interviewed. The department head presented three candidates and recommended the [adult child of one of the council members] as the preferred candidate. Please note that the prospective employee and the [council member] live in the same household.

The board deferred action pending investigation by the city attorney and guidance from the Mississippi Ethics Commission and/or Attorney General. In an effort to maintain compliance with the law, the city poses the question:

Given the current factual scenario, may the city hire a council member's child for the position of cashier/clerk in the [...] department. [The City] requests an expedited opinion herein.

III. ANALYSIS

Section 109, Miss. Const. of 1890, and its statutory parallel, Section 25-4-105(2), Miss. Code of 1972, both quoted above, prohibit a member of a public board from having an interest in a contract authorized by that board during his or her term or for one year thereafter. Frazier v. State, ex rel. Pittman, 504 So.2d 675, 693 (Miss. 1987). A common financial interest shared by a council member and another person, in this case a child, may give the council member a prohibited

interest in the child's income. See Waller v. Moore ex rel. Quitman County School Dist., 604 So.2d 265, 266-67 (Miss. 1992).

Examples of common financial interests precluding total financial independence include but are not limited to the child leasing or renting property from the parent, owing money to the parent, living on property owned by the parent, sharing liquid assets with the parent or co-owning a business with the parent. Likewise, the parent and child are not financially independent if the parent can or does claim the child as a dependent for income tax purposes.

Because the council member and the child live in the same household, the parent and child are not financially independent, and the child may not be employed by the city. An employment contract between a municipality and an individual who has a common financial interest with a board member violates Section 109 and Section 25-4-105(2) and is null and void, and the employee has no right to payment. Waller at 265. See also Towner at 1096, quoting Smith v. Dorsey at 9.

A recusal will *not* prevent or ameliorate a violation of Section 109 and Section 25-4-105(2), as they do *not* require any affirmative act by an individual member but merely action by the board. Towner v. Moore ex rel. Quitman County School Dist., 604 So.2d 1093, 1100 (Miss. 1992), and Waller v. Moore ex rel. Quitman County Sch. Dist., 604 So.2d 265, 266-267 (Miss. 1992). By contrast, the financially independent child of a city council member may be employed by the city, but the parent must fully recuse from any council action which benefits the child. See Advisory Opinions No. 15-075-E, 13-094-E and 09-024-E.

MISSISSIPPI ETHICS COMMISSION

BY:

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