

SUBJECT: COUNTY DEPARTMENT OF SOCIAL SERVICES BOARD MEMBER
SERVING AS GUARDIAN AD LITEM IN THE COUNTY FAMILY COURT

SUMMARY:

The Ethics Reform Act does not prohibit a member of a County Department of Social Services Board from serving also as a Guardian Ad Litem in the County Family Court; however, he would be required to follow the procedures of Section 8-13-700(B) on matters affecting the GAL program in his capacity as a member of the County DSS Board.

QUESTION:

A member of the Dorchester County Department of Social Services Board questions whether his service as a Guardian Ad Litem in the in the County Family Court violates the Ethics Reform Act.

DISCUSSION:

This opinion is rendered in response to a letter dated May 13, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

The State Ethics Commission knows of no reason why a County DSS Board member could not serve as a Guardian Ad Litem in the County Family Court. The Commission notes, however, Section 8-13-700(B) which provides in part as follows:

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the

action or decision;

* * *

(5) if he is a public member, he shall furnish a copy to the presiding officer of any agency, commission, board, or of any county, municipality, or political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and reasons for it to be noted in the minutes;

In prior advisory opinions, the State Ethics Commission has advised that, when a person serves in more than one official capacity, he should follow the provisions as outlined in Section 8-13-700(B) when required to take action in one position affecting the other.

Although the Ethics Reform Act does not prohibit the Dorchester County DSS Board member from serving as a Guardian Ad Litem, the Commission advises that the South Carolina Attorney General's Office be contacted since the State Constitution's prohibition against dual office holding may apply to this situation.