

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 92 – 6**

November 23, 1992

RE: Application of SB 63 to current and former social workers within the Cabinet

In response to your request dated October 19, 1992, the Executive Branch Ethics Commission ("the Commission") hereby issues this advisory opinion.

The relevant facts are as follows. Social workers in the Department of Social Services, Cabinet for Human Resources, provide direct services to clients of the Cabinet across the Commonwealth of Kentucky. Many current employees are offered part-time employment with entities that contract with the Cabinet. Upon separation from employment, these workers are often approached to enter employment relationships with entities holding contracts for services with the Cabinet. For instance, the Cabinet contracts with the Mental Health/Mental Retardation Boards through the Department for Social Services and the Department for Mental Health/Mental Retardation. The comprehensive care centers operated by the Boards often ask Department for Social Services workers to work at the centers.

Because your request pertains to a number of questions, we have addressed each question separately in the order in which it was raised.

1. May a worker currently providing direct services to clients of the Cabinet also work for an agency providing services through contract with the Cabinet?

No. SB 63, Section 4(1) generally prohibits public servants from engaging in transactions involving a general conflict of interest due to the public servant's position in state government and the employee's relationship with other matters being brought before the state to gain a private benefit.

2. May a worker currently providing direct services accept employment with a comprehensive care center upon separation from employment with the Cabinet?

No, if the comprehensive care center is one to which he provided direct services as a state employee; otherwise, yes. In other words, pursuant to SB 63, Section 6(6), the employee would be prohibited from accepting employment for a period of six (6) months, after leaving state employment, with a business in a matter that he was directly involved in while a state employee. However, if the employee's new position would be in matters unrelated to the work that he performed while a state employee, he would be permitted to accept such employment immediately after leaving state employment without having to wait six (6) months.

3. Would the individual working as an occupational social worker have to refrain from working with state clients for a period of six (6) months?

Again, SB 63, Section 6(6) permits state employees generally to return to the professions in which they worked prior to becoming a state employee. However, he would be prohibited from working on any matter in which he was directly involved while with state government for a period of six (6) months. If the new position relates to other matters, he would be permitted to accept such employment immediately upon leaving state government. The determining factor depends on whether the individual worked on the same matter as a state employee and subsequently as an employee in the private sector. If so, the prohibition in SB 63 would apply. If not, SB 63 would not apply and he could begin immediately after leaving state employment.

4. If that individual had any association with administration of a contract would she be prohibited from consulting with or contributing to the administration of the contract or the preparation of a proposal for services in response to a request for proposal?

Yes, if she was directly involved in the matter as a state employee; otherwise, no.

5. If so, for how long?

Six (6) months regarding general employment. However, note that she could not represent her employer before a state agency for a period of one year in matters with which she was involved while a state employee.

6. Would that individual be prohibited from acting as a intermediary between the Cabinet and the comprehensive care center, or prohibited from acting as a "expert" witness at any administrative hearing involving the Cabinet and her new employer in the issue of interpretation of state regulations or policy?

(If so, for how long?)

Yes, she would be prohibited for a period of one year regarding matters with which she was involved while a state employee. If her representation before a state agency pertains to matters unrelated to her duties as a state employee, she could appear before the agency immediately after employment with the state is terminated.