

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 16

May 10, 1993

RE: Current state employee asks whether, upon resignation, employee may contract services with state facility in which employee is not currently employed.

This letter is in response to your April 23, 1993 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 10, 1993, meeting of the Commission and the following opinion is issued:

The relevant facts are as follows. You are currently a speech/pathologist employed by Hazelwood Center within the Cabinet for Human Resources and are contemplating opening a private practice. You are asking whether, upon resignation from your state job at the Hazelwood Center, you can contract with Central State Hospital, also within the Cabinet for Human Resources, to provide speech/language services.

KRS 11A.040(6) states (in pertinent part):

No present or former public servant shall, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, provided that, for period of six (6) months, he personally refrains from working on any matter in which he was directly involved in state government....

This statute prohibits you from contracting to provide services with the state in matters in which you were directly involved during your tenure. Since you are not currently employed by Central State Hospital, which is a separate facility from Hazelwood Center, the Commission assumes you are not directly involved in any matters there. Thus, the Commission sees no violation of Chapter 11A if you wish, upon your resignation, to contract to provide services at a facility where you are not currently employed and have no direct involvement in any matters.

The Commission emphasizes, though, if you were directly involved in matters at Central State Hospital while employed as a public servant, you should refrain from contracting with them for six (6) months following the end of your public service.