

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 93 – 43**

October 18, 1993

RE: Former state employee wishes to open day-care center

This letter is in response to your July 22, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the August 23, 1993 and subsequent meetings of the Commission, and the following opinion is issued.

The relevant facts provided to the Commission are as follows. You resigned from state employment with Cabinet for Human Resources (the "Cabinet") effective July 15, 1993. As a Human Resources employee, you worked in the Division of Social Services as a Family Services Worker Principal/Dedicated Child Care Worker for Madison and Garrard Counties. You also were responsible for Estill County while an employee was on maternity leave, but that responsibility ended more than six months ago. Your job duties included processing of child care billing statements and child care agreement forms in the "Purchase of Care" program.

The "Purchase of Care" program is a federally funded program to provide child care through block grants. Through this program, the Cabinet enters into an agreement with a recipient who secures a child care provider. The Cabinet, the recipient of the child care service and the provider sign the agreement. The provider submits monthly billing statements for the number of days the child attended the day care. You are planning to open a day-care center in Estill County and wish to know if you are in compliance with the ethics law if you agree to provide child care through the "Purchase of Care" program.

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 subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers.

The Commission concludes that the provision above does not prohibit you from opening a day-care center and entering into agreements to provide child care through the "Purchase of Care" program. Your general knowledge gained in the child-care area while a state employee does not prohibit you from participating in this program. As a state employee you were not directly involved in child care agreements and billing statements for the county in which you wish to locate your child care center.

Additionally, since you are starting a "new" day-care center, no agreements or billing statements were processed for the center while you were a state employee. The Commission believes you may immediately enter into agreements to provide child care through the "Purchase of Care" program.