

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 93 – 84**

December 16, 1993

RE: Questions concerning six-month prohibition following state government employment

This opinion is in response to your November 16, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 16, 1993, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are a division director within the Department of Education contracted through the Ohio Valley Education Cooperative (OVEC). As a division director, you have professional relationships with businesses that have contracts with the state to develop education technology. You have authority to act on behalf of state government to carry out duties such as evaluations, policy development, and use of state facilities and equipment. Prior to your state employment, you were in the technology area for eight years. Your contract with OVEC will be terminated at the end of 1993.

You ask the Commission:

- 1) *Will I be prohibited from accepting employment for a six-month period with a company that has contracts with the state?*
- 2) *Will I be allowed to work in a technology related business, inside or outside the state of Kentucky, since the business is directly related to the profession in which I have been previously involved?*
- 3) *Will I be allowed to work for a company doing business with the state if my employment is with a division or operation of the company that is located in another state?*

KRS 11A.040(6) provides:

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 a 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.

As a contract employee with the Department of Education, you receive all state benefits, and thus, in substance, are considered an executive branch employee.

The Commission cannot determine from your letter whether or not you are returning to your former business, profession or occupation. If you are returning to your former profession, the Commission believes you may accept employment with a company which holds contracts with the state, even if those contracts are in matters in which you were directly involved in your state employment, as long as you do not work on those matters for a period of six months following your termination of state employment. This applies to businesses both in and out of Kentucky.

If you are not returning to your former profession, you may not, for six months, accept employment with a company that contracts with the state in matters in which you were directly involved in your state employment.