

EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 94-29

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May 17, 1994

RE: Are deputy executive directors considered "officers" under KRS 11A?

DECISION: Yes

This opinion is in response to your April 14, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 17, 1994, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. Two deputy executive directors within your agency are merit employees. You believe the two employees should not be considered "management personnel with procurement authority" under the definition of "officer" in KRS 11A.010(7). You are requesting an opinion on whether the deputy executive directors are "officers" for purposes of filing the statement of financial disclosure under KRS 11A.050.

KRS 11A.050(1)(a) provides for financial disclosure by officers, candidates, and public servants as stated below:

(1) Each officer, each public servant listed in KRS 11A.010(9)(a) to (i), and each candidate shall file a statement of financial disclosure with the commission, as follows:

(a) Each officer and each public servant listed in KRS 11A.010(9)(a) to (i) appointed to or employed in any position as of January 1 of any year shall file the statement for the preceding calendar year, complete through December 31, with the commission on or before April 15 of each year.

KRS 11A.010(7) defines officer as provided:

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the State Board for Elementary and Secondary Education, the State Board for Adult and Technical Education, and any other management personnel with procurement authority;

The provisions above define "officer" to include major management personnel in the executive branch of state government, including principal assistants and division directors. The Commission believes that deputy executive directors are major management personnel in positions similar to principal assistants or division directors. In addition, the deputy executive directors are authorized to purchase goods, and thus, have procurement authority. Thus, deputy executive directors are officers under KRS 11A.010(7) and are required to file the statement of financial disclosure.