

ADVISORY OPINION 94 - 49

September 13, 1994

RE: May family services worker accept employment immediately upon resignation?

DECISION: Yes

This opinion is in response to your August 25, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 13, 1994, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are employed as a family services worker within the Department for Social Services of the Human Resources Cabinet. You wish to resign your position in state government and accept employment with a regional Family Preservation Program. You ask if your acceptance of employment would be a conflict with the Executive Branch Code of Ethics.

In considering your request the Commission takes note of the following provisions of KRS 11A.040:

(6) No present or former officer or public servant listed in KRS 11A.010(9)(a) to (i) 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 the last 36 months of 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 during the last 36 months of his tenure 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.

(7) A former public servant shall not act as a lobbyist or lobbyist's principal for a period of one (1) year after the latter of:

- (a) The date of leaving office or termination of employment; or
- (b) The date the term of office expires to which the public servant was elected.

(8) A former public servant shall not represent a person in a matter before a state agency in which the former public servant was directly involved, for a period of one (1) year after the latter of:

- (a) The date of leaving office or termination of employment; or
- (b) The date the term of office expires to which the public servant was elected.

As a family services worker, you are not considered an officer as defined in KRS 11A, and thus are not subject to the post-employment restrictions in KRS 11A.040(6). You may, upon resignation from state government, immediately accept employment with the regional Family Preservation Program.

You are subject, however, to the post-employment restrictions in KRS 11A.040(7) and (8). As such, for one year after your resignation from state government you may not act as a lobbyist in your new employment, nor may you represent your new employer before the state in a matter in which you were directly

involved during your state employment.