

ADVISORY OPINION 94 - 68

December 15, 1994

RE: Does employee's business create a conflict of interest?

DECISION: No, as long as separated from duties in the public interest

This opinion is in response to your November 30, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 15, 1994, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are employed as a co-op coordinator for the Department of Technical Education within the Workforce Development Cabinet. You own a 25% interest in a temporary placement and permanent agency. Prior to your investment in this agency, you sought a legal opinion from your agency's Office of Legal Services as to whether such an investment would present a conflict of interest for you as a state employee.

In response to your request, the Office of Legal Services stated that "there would appear to be no conflict of interest in owning your placement agency and carrying out your duties as co-op coordinator". However, the office cautioned you that "there would be a conflict of interest if you were unable to keep completely separate your two business interests".

You state that your private placement business will not accept for placement any student who is currently enrolled at the technical school where you are employed. Your private business is not a vendor of your state agency, nor is it in competition with your state agency. However, former students of your school have been placed by your agency.

You ask the Commission whether the business in which you are currently involved or a similar business in which you may be involved in the future creates a conflict of interest for you.

KRS 11A.020(1)(a) provides:

- (1) No public servant, by himself or through others, shall knowingly:
 - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

The Commission finds no conflict with your ownership of a temporary placement and permanent agency provided your private agency does not accept students who are enrolled at the technical school where you are employed. We caution you not to make contacts on state time for the benefit of your private business. In addition, in your private business you should not place people as employees at businesses with which you deal in your position as co-op coordinator.