

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 95-34
August 24, 1995

RE: May day care center owned by employee enroll children who receive child care benefits from agency for which employee works?

DECISION: Yes, as long as position involves no responsibility for day care centers.

This opinion is in response to your August 8, 1995, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the August 24, 1995, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. Previously, you requested an advisory opinion from the Commission concerning whether a day-care center owned by an employee could enroll children who were recipients of child care benefits from the agency for which the employee worked. Your request was addressed in Advisory Opinion 94-44 issued by the Commission. The Commission concluded that a day-care center owned by an employee who, as part of his official duty, was involved in investigations at competitors' day-care centers, or whose coworkers were responsible for approval of applicants of entitlement funds, should not enroll children who were recipients of entitlement funds distributed from the department for which the employee worked.

Subsequent to the issuance of that opinion, you were considered for a new employment position in which you would not have any responsibilities concerning day-care centers or entitlement funds for child care benefits. Your new employment office would have been in a different location from the Division of Family Services which approves child care benefits and investigates child abuse allegations. You asked if the day-care center you owned could then enroll children who were recipients of child care benefits.

The Executive Director sent you a letter concluding that you could enroll children in your day-care center as long as you were not involved with child care centers or benefits as part of your official duty, and your new position did not involve working with individuals who were.

You anticipate being transferred to a new position within a different unit of the Department of Social Services in which you will not have any responsibility for child care centers or benefits. In addition, coworkers in your unit will not be involved in investigations or

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approval of applicants for child care benefits. However, employees who are involved with investigations of child care centers will be physically located in the same building as your unit, and you may have frequent contact with them on a personal basis. You ask if you are allowed to accept children who receive child care benefits from your agency, provided the children are not the same clients whom you will serve as a child protective services worker.

The Commission believes that you may enroll children in your day-care center as long as neither you, nor your co-workers, have any responsibility for investigation of child care centers or approval of applicants for child care benefits, and the children are not clients whom you serve as a child protective services worker. The Commission cautions you not to discuss child care centers or applicants with individuals with whom you have contact in your building who are responsible for the investigation of child care centers.

EXECUTIVE BRANCH ETHICS COMMISSION

BY: Martin Huelsmann, Chairman