

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 96-16

May 14, 1996

RE: May former employee provide volunteer service and accept reimbursement for actual expenses from client of state agency for which employee formerly worked?

DECISION: Yes.

This opinion is in response to your March 15, 1996, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 14, 1996, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You terminated your state employment with the Kentucky Fair and Exposition Center ("Exposition Center") on February 20, 1996. As a former "officer," as defined in KRS 11A.010(7), you understand that you are prohibited, for six months, from accepting employment with a client of the Exposition Center with whom you had direct involvement during your state tenure. You ask whether you may immediately perform volunteer work for such a client of the Exposition Center. Furthermore, if you perform volunteer work, you seek clarification as to whether you may be reimbursed by the client for out-of-pocket expenses such as phone calls, copying, etc.

KRS 11A.040(6) and (8) provide:

(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 thirty-six (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

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during the last thirty-six (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, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.

...

(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.

The Commission believes that you may immediately provide volunteer services to a client of the Exposition Center with whom you had direct involvement. The Commission does not believe that volunteer work constitutes employment as long as you are not compensated. The Commission cautions you not to accept compensation for your volunteer service even after six months has elapsed.

You may be reimbursed by the client for the actual expenses you incur as a result of your volunteer service as long as such reimbursement does not constitute compensation as defined in KRS 11A.010(3) below:

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another.

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In addition, the Commission points out that, for one year after terminating your state employment, you must refrain from representing the client before the Exposition Center in matters in which you were directly involved as a state employee.

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BY: Ruth H. Baxter, Chair