

## ADVISORY OPINION 97-21

October 7, 1997

RE: May employee remain as board member for non-profit organization which contracts with agency audited by employee's agency?

DECISION: Yes.

This opinion is in response to your August 26, 1997, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the October 7, 1997, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You recently joined the office of the Auditor of Public Accounts ("Auditor's") as a Principal Assistant. In addition, you serve, without compensation, as a board member and president for the Council on Prevention & Education Substances, Inc. ("COPEs"), a non-profit organization that provides drug prevention education. However, the management of COPEs is handled by an executive director.

COPEs is funded through state, local, federal and private grants. You have lobbied the city of Louisville for funding on behalf of COPEs, but you have never lobbied state government. COPEs currently has a contract with the Division of Substance Abuse, Department for Mental Health and Mental Retardation Services, Cabinet for Health Services to provide drug prevention education.

Although the Auditor's office does audit the Cabinet for Health Services, your official duty for the Auditor's office does not involve matters concerning the audit of Cabinet for Health Services. You ask if it is appropriate for you to continue in your capacity as president of COPEs and also be employed by the Auditor's office.

KRS 11A.020(1)(a) and (2) provide:

(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;

...

(2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

The Commission believes that your service on COPEs does not appear to be in conflict with your employment with the Auditor's office. However, in order to avoid even the appearance

of a conflict of interest, the Commission recommends that neither you nor anyone under your supervision be involved in any matters concerning the audit of the Cabinet for Health Services. In addition, you should not be involved in lobbying any state agencies for funding for COPES.