

ADVISORY OPINION 98-1

February 26, 1998

RE: May State Highway Engineer's son solicit employment from firms which do business with the Transportation Cabinet?

DECISION: Yes, as long as State Engineer refrains from contact regarding son's employment and abstains from any involvement regarding son's employer.

This opinion is in response to your December 24, 1997, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 26, 1998, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. On June 16, 1992, you were appointed State Highway Engineer for the Transportation Cabinet. Previously, you had worked in the private sector. Your son, who at the time was employed by a contracting company in London, Kentucky, was also pursuing a degree in civil engineering. Your son will soon transfer to the University of Kentucky in order to complete his degree requirements. It will be necessary for him to obtain employment while he completes his schooling as he is married and has two children. His entire background has been in the construction and engineering fields. You ask if he may solicit employment with a firm or firms that do business with the Transportation Cabinet.

KRS 11A.020(1) 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;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

(c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

Your son is not prohibited from seeking employment with a firm or firms that do business with the Transportation Cabinet. However, you should refrain from any contact with firms concerning your son's potential employment. In addition, upon your son's employment, you should abstain from any involvement in matters concerning the firm or firms for which your son is employed and disclose your intention to abstain in writing as required by KRS 11A.020(3)

provided below:

(3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.