

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 99-25

June 8, 1999

RE: May employee volunteer to provide legal services privately?

DECISION: Yes, provided the employee does not use his official position to benefit himself privately.

This opinion is in response to your May 12, 1999, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 8, 1999, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are currently employed as a family services worker for a local office of the Department of Social Services, Cabinet for Families and Children. You recently passed the examination to practice law in Kentucky. You have been asked by some friends to represent them in an adoption proceeding. You ask whether this representation would be a conflict of interest with your position with the Cabinet.

**KRS 11A.020 Public servant prohibited from certain conduct
-- Disclosure of personal or private interest.**

(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;

...

(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.

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(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.

In Advisory Opinion 98-36 (a copy of which is enclosed), the Commission stated that an attorney is not prohibited from volunteering to serve as a trial commissioner provided he does not use his influence in his official position to benefit himself privately. Similarly, you are not prohibited from representing your friends in an adoption proceeding in your private capacity provided you do not use your position as a family services worker to benefit you or your friends. Furthermore, if you should have to appear before a state agency during the adoption proceedings, you should avoid all conduct which may lead the general public to conclude you are using your official position to further any private interest.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Don A. Wimberly

Enclosures: AO 98-36

April 10, 2008

Ms. Cynthia Millay
6126 Tosha Drive
Burlington, KY 41006

Reference: 060899.14

Dear Ms. Millay:

At its June 8, 1999, meeting, the Executive Branch Ethics Commission took up your request, dated May 12, 1999, in which you ask whether an employee may volunteer to provide legal services privately.

The enclosed Advisory Opinion 99-25 is issued in response to your inquiry.

Sincerely,

Jill LeMaster, Executive Director

Enclosure: AO 99-25