

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 99-45

October 22, 1999

RE: May Director of Victims Advocacy Division remain as a volunteer board member for local children's advocacy center?

DECISION: Yes, provided she removes herself from matters involving children's advocacy centers.

This opinion is in response to your October 13, 1999, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the October 22, 1999, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Office of the Attorney General, pursuant to KRS 15.900, chairs the Child Sexual Abuse and Exploitation Prevention Board (the "Board") and also provides administrative staff support. Historically, the Attorney General has designated the Director of the Victims Advocacy Division to chair the Board meetings and provide staff support to the Board.

One of the statutory purposes of the Board is to fund expenditures for child sexual abuse exams. Twelve children advocate centers, nonprofit organizations with local multidisciplinary child sexual abuse teams, provide these exams throughout the state. In recent months, the Board has experienced a funding crisis for payment of these exams. Some of the local child advocacy centers may provide funding to the Board for this purpose.

The new Director of the Victims Advocacy division has served on a local children's advocacy center board for a number of years as an unpaid volunteer. In order to avoid a potential conflict of interest between the Director's official position and her volunteer position, you propose the following procedures be implemented.

- If any matter involving the use for children's advocacy centers is to be before the Board, the Director for the Victims Advocacy Division would not chair the Board or participate in any discussions;

- All administrative and contractual matters involving any children's advocacy centers would be transferred to a Principal Assistant who reports directly to the Attorney General and has day to day responsibility for budgetary, financial and contractual matters; and
- Staff in the Victims Advocacy Division involved with children's advocacy centers will report directly to the Principal Assistant in any matters related to their centers.

You ask whether it is permissible for the Director of the Victims Advocacy Division to remain on the local children's advocacy center under the above proposals.

KRS 11A.020(1)(a), (d) and (3) 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;

...

(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.

...

(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.

In order to remove any possible conflict of interest, the Commission believes that the most appropriate action for the Director would be to remove herself from the board of the local children's advocacy center.

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However, if the Director wishes to remain in her volunteer position, the Commission believes that the Office of the Attorney General should take the action proposed above in order to remove the Director from any potential conflicts of interest. The Director should not have any involvement, as part of her official duty, in matters pertaining to local children's advocacy centers. Such action should be documented in writing as required by KRS 11A.020(2) above and be placed in the Director's personnel file.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: Bertie Oldham Salyer, M.A., A.M.E.

October 25, 1999

John Cubine, Director
Division of Administrative Services
Office of the Attorney General
Suite 118, Capitol Building
Frankfort, Kentucky 40601

Reference: 102299.9

Dear Mr. Cubine:

At its October 22, 1999, meeting, the Executive Branch Ethics Commission took up your request, dated October 13, 1999, in which you ask whether the Director of the Victims Advocacy Division may remain as a volunteer board member for a local children's advocacy center.

The enclosed Advisory Opinion 99-45 is issued in response to your inquiry.

Sincerely,

Jill LeMaster, Executive Director

Enclosure: AO 99-45

Visit our website: www.state.ky.us/agencies/ethics/ETHICS/HTM