

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 00-28
April 28, 2000

RE: May employee privately represent clients against a state agency?

DECISION: No.

This opinion is in response to your April 13, 2000, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the April 28, 2000, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are an Internal Policy Analyst for the Cabinet for Health Services, Department for Public Health (the "Department"). You are also a licensed attorney. You have been appointed by the Meade County District Court as guardian/conservator for a private client. A social worker from Community Based Services with the Cabinet has substantiated a finding of neglect by your client for his minor children. You wish to represent your client in this matter as his guardian and attorney in an administrative appeal or in district court if necessary. You ask whether or not this would be a conflict of interest for you.

KRS 11A.020(2) provides:

(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.

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Additionally, KRS 11A.020(1)(b) 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;

In Advisory Opinion 97-23 (a copy of which is enclosed), the Commission concluded that a General Counsel for a state agency should not represent a client privately against a state agency either in court or before the agency. Such representation may be considered an attempt to influence a public agency in derogation of the state at large. Similarly, the Commission believes that you should not represent a private client against the Cabinet for Families and Children in an administrative appeal or in district court.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Bertie Oldham Salyer, M.A., A.M.E.

Enclosures: Advisory Opinion 97-23

www.state.ky.us/agencies/ethics/ETHICS.HTM

May 9, 2000

Mr. James Carreer
Department of Public Health
Cabinet for Health Services
275 East Main Street
Frankfort, Kentucky 40601

Reference: 042800.18

Dear Mr. Carreer:

At its April 28, 2000, meeting, the Executive Branch Ethics Commission took up your request, dated April 13, 2000, in which you ask whether an employee may privately represent clients against a state agency.

The enclosed Advisory Opinion 00 – 28 is issued in response to your inquiry.

Sincerely,

Jill LeMaster, Executive Director

Enclosure: Advisory Opinion 00 – 28