

ADVISORY OPINION 00-47
August 18, 2000

RE: May former employee represent spouse before the Personnel Board?

DECISION: Yes.

This opinion is in response to your August 3, 2000, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the August 18, 2000, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You retired from the Kentucky State Police on July 31, 2000. Additionally, you are a practicing member of the Kentucky Bar Association. Your spouse, who currently is employed by the Kentucky State Police, has been subjected to continual harassment by her supervisors since your reporting of suspected violations of the Executive Branch Code of Ethics by members of the state police.

Prior to your retirement, you served as commander of the vehicle investigations section, based in Frankfort, and had no influence or connection with your spouse's duties as a clerk at the Bowling Green post. Prior to that, you served as legal officer or general counsel for the Kentucky State Police and represented the agency before the Personnel Board on various matters.

Your spouse is appealing an employee evaluation to the Kentucky Personnel Board and you would like to represent her at the hearing. Prior to your retirement you pursued representation of your spouse in this matter, but were asked by your agency to remove yourself from such representation because of possible conflicts of interest. You agreed to remove yourself at that time, but did discuss this matter with the Kentucky State Police. You ask whether your representation of your spouse now before the Kentucky Personnel Board regarding her evaluation would violate KRS 11A.040(9).

KRS 11A.040(9) provides:

- (9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:
- (a) The date of leaving office or termination of employment; or
 - (b) The date the term of office expires to which the public servant was elected.

Although it appears that you were directly involved in the matter involving your spouse's employee evaluation during the time of your employment with the Kentucky State police, the Commission believes that because you had no involvement in this matter as a part of your official duty as the commander of the vehicle investigation section, but rather as a spouse, you are not prohibited from representing your spouse before the Personnel Board. Therefore, you may immediately represent your spouse, provided also, that you had no involvement with this matter as part of your official duties as legal counsel.