

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 03-6

February 13, 2003

RE: May an employee who serves as an interpreter in state employment serve on a state board that will be responsible for licensure of interpreters for the deaf and hard of hearing?

DECISION: Yes, provided the employee abstains from involvement in licensure decisions for himself, specifically, and employees in his department.

This opinion is issued in response to your February 3, 2003 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). The matter was reviewed at the February 13, 2003 meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. An employee of the Department of Vocational Rehabilitation (the "Department") serves as a Lead Interpreter/Coordinator for the Deaf and Hard of Hearing. This employee has been appointed to serve on the Kentucky Board of Interpreters for the Deaf and Hard of Hearing (the "Board"). Effective July 2003, interpreters will be required to have a license issued by the Board in order to practice in Kentucky. You ask if this employee's service on the Board will cause a conflict of interest in light of his state position and his position as an individual who will be regulated by the Board.

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

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 03-6

February 13, 2003

Page Two

(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.

The Commission has opined that state employees may serve on state boards or commissions so long as there is no conflict or interference with the state employee's job duties. See Advisory Opinion 94-60 (enclosed).

The Commission has also held that a state employee may serve on a state board or commission so long as that board or commission does not have governing authority over the agency by which the employees is employed. See AO 98-26. In this case, the Board does not have governing authority over the Department, even though it will have licensing authority over some of the Department's employees. As in AO 98-26, the Commission believes that so long as the employee abstains from decision making pursuant to KRS 11A.020(3) in situations that involve conflicts of interest, such as decisions the Board will make specifically regarding the employee or employees that are employed by the Department, the employee can avoid a conflict of interest and may serve on the Board.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR:

Enclosure: Advisory Opinion 94-60