

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93-17

May 10, 1993

RE: Employee retiring from the state to accept outside employment requests opinion on potential conflict of interest.

This letter is in response to your April 28, 1993 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 10, 1993 meeting of the Commission and the following opinion is issued:

You have stated the relevant facts are as follows. You are currently a state employee supervisor who anticipates retiring from the state to accept a position with a charitable organization.

Your job responsibilities include supervising a probation and parole officer who occasionally supervises a resident of one of the halfway houses operated by the charitable organization from which you seek employment. Two other probation and parole officers, who are not under your supervision, supervise offenders in organizations operated by the charitable organization where you seek employment. You state, however, that you have no direct dealings with the halfway house or the charitable organization mentioned above.

In the position you anticipate accepting, you will not negotiate contracts with the Commonwealth of Kentucky for the charitable organization.

Previously, you have been employed by the charitable organization on a part-time basis. This employment was approved by your current department and was in compliance with your department's policy and procedures on the matter. You will be returning to the same business and profession you were involved in during your tenure with the Commonwealth rather than prior to the beginning of your term of employment.

You wish to know if this situation creates a conflict of interest under the Executive Branch Code of Ethics.

KRS 11A.040(6) states:

No present or former public servant shall, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, provided

that, for period of six (6) months, he personally refrains from working on any matter in which he was directly involved in state government.

This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers.

Based on the information submitted, we believe your acceptance of employment with the charitable organization does not present a conflict of interest under the Executive Branch Code of Ethics. The provisions above prohibit a former state employee from accepting employment from any person or business that contracts with the state in matters in which the employee was directly involved. However, as a state employee, you are not directly involved in any matters concerning the charitable organization, and, thus, no conflict of interest arises.