

ADVISORY OPINION 98-20

April 8, 1998

RE: May employee serve on the Louisville Central Labor Council?

DECISION: No.

This opinion is in response to your March 19, 1998, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the April 8, 1998, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are a merit system employee in the position of Appeals Referee for the Kentucky Unemployment Insurance Commission. You conduct hearings related to unemployment insurance tax issues between the Division and employers that occasionally involve employees. In addition, you review and make recommendations concerning hearings conducted by referees in unemployment insurance benefit cases between employers and employees.

You have been invited to serve on the Louisville Central Labor Council (the "Council"), a private union affiliated organization that identifies and attempts to solve common needs of employees. You will receive no compensation for your service and will attend the meetings in the evenings on your own time. You have stated that if a case ever came before you that you believed could create even the appearance of a conflict between your duties as a state employee and your responsibilities as a member of the Council, you would recuse yourself from involvement with the case. You ask whether you are prohibited from serving on the Council under the Executive Branch Code of Ethics.

KRS 11A.005(1)(a) and (d) provide:

- (a) A public servant be independent and impartial;
- ...
- (d) The public has confidence in the integrity of its government and public servants.

Additionally, KRS 11A.020(1)(a) 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.

From the information provided, it appears that the Council is an organization that

promotes the interests of labor (i.e. the employees). Because your official position requires you to make recommendations in disputes between labor and management, the Commission believes that your service on the Council would present the appearance of a, if not an actual, conflict of interest with your official duties. In the interest of an appearance of strict neutrality, the Commission believes you should not serve on the board of an organization of which represents labor.

Although you will not receive compensation for your service, the Commission believes that your position in state government requires you not to take a stand on labor vs. management issues privately. It believes that your service on the Council would present the appearance of your promoting the interests of labor over management.