

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 99-12

April 13, 1999

- RE: (1) Are Kentucky Statewide Independent Living Council members subject to the Executive Branch Code of Ethics?
(2) May Department of Vocational Rehabilitation employees seek position as executive director of the Kentucky Statewide Independent Living Council?

- DECISION: (1) No.
(2) Yes.

This opinion is in response to your March 15, 1999, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the April 13, 1999, meeting of the Commission and the following opinion is issued.

You provide the following information. The Kentucky Statewide Independent Living Council (the "Council"), attached to the Department of Vocational Rehabilitation (the "Department") for administrative purposes, administers the Independent Living Program authorized by Title VII of the 1973 Rehabilitation Act, as amended. The Department provides staff support but does not regulate or have authority over the Council.

The Council plans to employ an executive director, and members of the council, as well as Department employees, would like to apply for the position. In order to avoid any appearance of impropriety, the Department requests an opinion on the following questions:

- (1) Are members of the Council subject to the Executive Branch Code of Ethics?
(2) If so, would a Council member be subject to the Executive Branch Code of Ethics post employment restrictions?
3) Would it be appropriate to consider Department staff for employment as executive director for the Council?

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The Commission opined in Advisory Opinion 93-53 (a copy of which is enclosed) that part-time board and commission members are not public servants subject to the Executive Branch Code of Ethics, unless the board or commission is specifically listed in the "officer" definition found in KRS 11A.010(7). Because the Council is not specifically listed in KRS 11A.010(7), the members of the Council are not subject to the provisions of the Executive Branch Code of Ethics, and thus are not subject to the post employment restrictions in the Code. However, employees of the Council, including the executive director, are subject to the Code of Ethics.

The Commission believes that employees of the Department may seek the position of executive director. Conversely, the Commission advises that any members of the Council who wish to seek the position resign their positions on the Council first. Although the members of the Council are not subject to the Code of Ethics, such action will help to avoid actual or perceived conflicts in the selection of an executive director by the Council.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Don A. Wimberly

Enclosures Advisory Opinion 93-53

April 10, 2008

George Parsons, Staff Assistant
Department of Vocational Rehabilitation
Workforce Development Cabinet
209 St. Clair
Frankfort, KY 40601

Reference: 041399.8

Dear Mr. Parsons:

At its April 13, 1999, meeting, the Executive Branch Ethics Commission took up your request, dated March 15, 1999, in which you ask questions about the Kentucky Statewide Independent Living Council.

The enclosed Advisory Opinion 99-12 is issued in response to your inquiry.

Sincerely,

Jill LeMaster, Executive Director

Enclosure: AO 99-12