

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 99-41

October 22, 1999

RE: Are departments in the Workforce Development Cabinet considered separate state agencies?

DECISION: No.

This opinion is in response to your September 23, 1999, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the October 22, 1999, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Office of the General Counsel for the Workforce Development Cabinet (the "Cabinet) requests clarification of the definition of "state agency" pursuant to KRS 11A.010(10) as it pertains to the various departments within the Cabinet. You believe that these departments are separate, distinct entities with diverse missions. You are concerned that a potential interdepartmental conflict of interest could arise with respect to activities prohibited by the Executive Branch Code of Ethics unless each department is deemed to be a separate "state agency".

It is the position of the Cabinet that each of the six departments, Department for Adult Education and Literacy, Department for the Blind, Department for Employment Services, Department for Technical Education, Department for Vocational Rehabilitation, and the Office of Training and ReEmployment, is independent from the appointing authority because each department possesses separate and distinct characteristics. You ask for an opinion from the Commission on this matter.

KRS 11A.010(10) defines "agency" as provided below:

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

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Although each department has a distinct mission, it does not appear that each department is independent of the Cabinet for functioning purposes. Personnel and payroll for all departments are handled at the Cabinet level. Additionally, the Cabinet handles purchasing and administration for all departments except the Department for the Blind and the Department for Vocational Rehabilitation. It appears that many services are provided by the Cabinet to the departments in the areas of purchasing, personnel management, and other administrative areas. Thus, it appears to the Commission that the departments within the Cabinet are interrelated and are not separate agencies as defined by the Executive Branch Code of Ethics.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: Bertie Oldham Salyer, M.A., A.M.E.

October 25, 1999

Hon Sherry R. Deatrick
General Counsel
Cabinet for Workforce Development
Capital Plaza Tower, 2nd Floor
500 Mero Street
Frankfort, KY 40601

Reference: 102299.4

Dear Ms. Deatrick:

At its October 22, 1999, meeting, the Executive Branch Ethics Commission took up your request, dated September 23, 1999, in which you ask whether or not departments in the Workforce Development Cabinet are considered separate state agencies.

The enclosed Advisory Opinion 99–41 is issued in response to your inquiry.

Sincerely,

Jill LeMaster, Executive Director

Enclosure: AO 99–41

Visit our website: www.state.ky.us/agencies/ethics/ETHICS/HTM

