

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 00-13
February 25, 2000

RE: May the Office of the Attorney General use teddy bears to help facilitate a children's health care charity program?

DECISION: Yes.

This opinion is in response to your January 11, 2000, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 25, 2000, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. Kosair Charities, operates a program entitled "Bears on Patrol", a cooperative effort between Kosair Charities, a local radio station, and local law enforcement officials to equip law enforcement vehicles with teddy bears for young children exposed to traumatic situations. The teddy bears are paid for by donations to Kosair Charities.

The staff of the Division of Victims Advocacy within the Office of the Attorney General ("Division") works with victims of crime in local counties in conjunction with prosecutors. You ask whether the Division may accept teddy bears from Kosair Charities for program purposes. The Division of Consumer Protection within the Office of the Attorney General is responsible for requiring all charities in the Commonwealth to register. Thus, a regulatory relationship exists between the Office of the Attorney General and Kosair Charities.

KRS 11A.045(1) provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept tangible gifts or gratuities totaling a value greater than twenty-five dollars (\$25) in a single calendar year, or travel expenses, meals, alcoholic beverages, lodging or honoraria of any value, from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. The following items are exempt:

(a) Coffee, soft drinks, pastries, hors d'oeuvres, or similar refreshments;

(b) Food consumed at a public event to which twenty-five (25) or more individuals are in attendance if that event is also open to participants other than public servants and members of the donor's industry;

(c) Meals, beverages, and free admission to an event if the public servant, as a part of his official duty, is a speaker or has a significant role in the program;

(d) A campaign contribution to an employee's own campaign if in compliance with KRS Chapters 121 and 121A and all other campaign finance laws;

(e) A gift from a family member who is not acting as an intermediary for a person from whom the gift would be otherwise prohibited;

(f) Food, clothing, and shelter in times of natural disaster or other emergency;

(g) Door prizes, if also open to persons other than public servants and members of the donor's industry and if all participants have an equal chance of receiving the prize;

(h) Gifts which are modest, reasonable, and customary, received on special occasions such as marriage or retirement;

(i) Awards of modest and reasonable value which are publicly received in recognition of public or charitable service, such as plaques;

(j) Prizes awarded based solely on skill, such as those received in golf or tennis tournaments, if those tournaments are open to participants other than public servants and members of the donor's industry;

(k) Meals at conferences or seminars which are included as part of the dues paid or registration fee and which are available to all attendees; and

(l) A single copy of a textbook received by an educator for review.

In advisory opinions 96-21 and 96-42 (copies of which are enclosed), the Commission advised that state agencies should not accept gifts and gratuities from entities that they regulate.

However, in this situation, the Commission does not believe the use of the teddy bears by the Division of Victims Advocacy is an acceptance of a gift by the Office of the Attorney General. The Office of the Attorney General is merely helping to facilitate a program operated by Kosair Charities. Thus, the Commission believes the Division of Victims Advocacy may help facilitate such a program through the use of such teddy bears.

Enclosures: Advisory Opinion 96-21
Advisory Opinion 96-42