

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 01-31**

September 28, 2001

RE: May Commissioner send letter to other state officials encouraging them to donate surplus computer equipment to nonprofit organization?

DECISION: Yes.

This opinion is in response to your August 1, 2001, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the August 10 and September 28, 2001 meetings of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Department for the Blind (the "Department") is an agency within the Workforce Development Cabinet. Prior to July of 2000, Kentucky Industries for the Blind was a division within the Department that provided employment opportunities for individuals who are blind or visually impaired. In July of 2000, Kentucky Industries for the Blind was legislatively abolished and its functions were transferred to a non-profit corporation, New Visions Enterprises, Inc. In order to ensure a successful transition and continuation of important functions, the General Assembly provided for continued support for the division of Kentucky Industries for the Blind for six years, as provided in KRS 163.475. At the time of its formation, New Vision Enterprises contained a division, New Life Computers, which purpose was to accept donations of used computer equipment, refurbish them, and distribute the equipment for a minimal fee to persons with disabilities.

You have been informed that New Life Computers has recently filed Articles of Incorporation and is no longer a division of New Visions Enterprises, but is now a separate, non-profit organization. The Commissioner of the Department would like to write to other state officials to encourage donations of surplus state computer equipment to New Life Computers. The Department does not have a contractual or regulatory relationship with New Life Computers. You ask: "May the Commissioner of the Department for the Blind write a letter to other state government officials to inform them of a non-profit organization which accepts donations of surplus computer equipment for distribution to people with disabilities?"

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KRS 11A.020(1)(d) provides:

(1) No public servant, by himself or through others, shall knowingly:

...

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

In Advisory Opinion 98-13 (a copy of which is enclosed), the Commission stated that state officials are not permitted to write letters on state government stationery endorsing or promoting any product, service or business, or any candidate for elective office. However, the opinion also states that an official may use his official title and personal stationery to write a letter of endorsement or solicit donations for non-profit organizations from entities that do no business with and are not regulated by an agency under the ultimate supervision of the official.

Thus, the Commission believes that the Commissioner may send letters to state officials encouraging them to donate surplus computer equipment to New Life Computers. Such action does not appear to be in derogation of the public interest at large. The decision as to whether state stationery and resources may be used for such correspondence is a management one, dependent on whether such use of resources is consistent with the mission of the Department.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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BY CHAIR: Cynthia Stone, J.D.

Enclosures: Advisory Opinion 98-13