

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 02-15

March 22, 2002

RE: 1. May a state agency write a letter of support for an entity seeking grant monies?
 2. May a state agency write a letter in support of establishing a CASA program in the county where the local state agency office is located?

DECISION: 1. No, but state official may do so personally if letter will not be sent to persons or businesses regulated by, doing business with, or seeking to influence the official's state agency.
 2. Yes.

This opinion is in response to your February 25, 2002, request for an opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the March 22, 2002, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are employed by Cabinet for Families and Children, Community Based Services, (the "Cabinet") in Daviess County. You frequently have requests from outside entities, such as the Court Appointed Special Advocate Program ("CASA") and Family Preservation Programs, to write letters of support for the purpose of these programs obtaining grant monies. You ask whether, as an agency representative, you may write such a letter, and if so under what conditions. You also ask if the Cabinet may write a letter in support of setting up a CASA program in one of the counties your local agency office serves.

KRS 11A.005(1)(a) provides:

- (1) It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:
 - (a) A public servant be independent and impartial;

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In Advisory Opinions 94-38 and 98-13 (copies of which are enclosed), the Commission stated that executive branch officials should not use official state stationery to write a solicitation letter for donations on behalf of a non-profit organization. However, the opinion also provides that an executive branch official is not prohibited from using his official title on his own personal stationery when soliciting for non-profit organizations from entities that do not do business with and are not regulated by the state agency supervised by the official. The Commission does not believe that using one's official title to solicit such donations is using one's official position to create an advantage for oneself or others in derogation of the public interest.

If a representative of the Cabinet writes letters supporting some outside entities and not others that compete for the same grant, it could create an appearance that the Cabinet is endorsing some entities to the detriment of others. As a general rule, you, as a representative of the Cabinet, should not author letters supporting outside entities seeking grant monies. However, you, personally, may write a letter on your own personal stationery in support of a non-profit entity, provided the letter is not sent to organizations that are regulated by, doing business with, or in any way seeking something from the Cabinet, and provided you do not convey that you are representing the Cabinet.

The Commission believes that the Cabinet is not prohibited from writing a letter in support of establishing a CASA program in one of the counties your local office serves, provided the letter is not sent to any organizations that are doing business with, regulated by, or seeking to influence actions of the Cabinet. CASA is a program established by the legislature at KRS 620.500, *et seq.* The legislature obviously felt that these programs could be beneficial to those professionals who must deal with problems of child abuse and neglect in officially endorsing the programs, and setting up a very detailed manner in which CASA programs may be set up from county to county. There appears to be no conflict for your local office to support establishment of this program that will hopefully help your agency do its job better.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY VICE CHAIR: Joseph B. Helm, Jr.

Enclosures: Advisory Opinion 94-38
Advisory Opinion 98-13