

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 04-8**  
February 20, 2004

RE: May registration fees to a conference be waived for a state employee?

DECISION: Yes.

This opinion is in response to your February 16, 2004, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 20, 2004, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Kentucky Association of Administrative Adjudicators ("KAAA") holds an annual conference for which a registration fee is charged, usually in the amount of one hundred dollars (\$100). This association's membership is composed of state employees and non-state employees. A question has arisen concerning the KAAA Board of Directors granting registration fee waivers to presenters employed by the Office of the Attorney General ("OAG"). You state that many members of KAAA have, in the past, given hundreds of hours to further administrative professionalism, and have not been provided registration fee waivers. You further state that, in the past, presenters (and sometimes non-presenters) from the OAG have been provided registration fee waivers, but no other member of KAAA has received a fee waiver. An employee of the OAG has been asked to be a presenter at the upcoming annual conference, and has requested a waiver of the registration fee in consideration of the hours he will spend preparing for the conference. This OAG employee would prepare his presentation on state time.

In your request, you state that it is your understanding that for anyone to receive a benefit greater than \$25 for performance of their official duties on state time, would be a violation of the Executive Branch Code of Ethics (the "Code"). You ask now whether a state employee who uses state time and resources to prepare a presentation for the KAAA conference, and who requested and/or accepted a registration fee waiver, would be in violation of the Code.

The OAG employee will not receive compensation (other than that received from his employer for performance of his job duties) for his presentation or time spent in preparing the presentation. He requests waiver of the conference registration fee, which, presumably, would be paid by the OAG.

KRS 11A.040(5) provides:

(5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

The Commission has previously addressed the question, in Advisory Opinion 93-27, of whether requesting or accepting a waiver of a fee for a golf tournament would violate the Code. In this case, however, the issue is whether acceptance of a waiver of the registration fee would violate KRS 11A.040(5), in that the OAG employee's presentation, and time spent in preparation, are part of his official duties.

As noted above, it is presumed that the KAAA conference registration fee for state employees would typically be paid by the employee's agency. Thus, it does not appear to the Commission that the OAG employee's solicitation of, or acceptance of, a conference registration fee waiver would constitute acceptance of compensation other than that provided by law for performance of his official duties, but rather would be an acceptance of a gift by the agency. Likewise, the Commission believes that even if the registration fee will be paid by the individual and not by the employee's state agency, the fee waiver would not constitute compensation to the employee in this case, but would be a gift also. Thus, the employee would not be prohibited by the Code from soliciting or accepting a waiver of registration fee for participation in the conference.

The Commission does not see a conflict of interest for the OAG employee to use state time and resources in preparation for his presentation at the KAAA conference, provided his agency determines that such use of his time is a proper use of his official position.

Furthermore, the KAAA does not have as its primary purpose the representation of persons or businesses seeking to do business with, regulated by, involved in litigation against, or seeking to influence the Office of the Attorney General. Consequently, KRS 11A.045 relating to the acceptance of gifts would not apply in this situation.

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BY CHAIR: Joseph B. Helm, Jr.

Enclosures: Advisory Opinion 93-27