

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 04-13

April 8, 2004

RE: May Service Region Administrator solicit employees under his supervision for monetary donations?

DECISION: No.

This opinion is issued in response to your March 26, 2004 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the April 8, 2004 meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are employed by the Cabinet for Health and Family Services (the "Cabinet"), Community Based Services, Barren River Region (the "Region"). Because funds for the Foster Parent Appreciation Banquet are not available through the Cabinet this year, your agency is attempting to raise funds creatively in an effort to fund the annual banquet in the Region. The supervisor of the Region's Recruitment and Certification Unit ("R & C"), the unit that recruits foster and adoptive families, has proposed that the Service Region Administrator (the "SRA") of the Region ask management staff within the Region to contribute \$10 each to help defray the expenses of the banquet. You ask for an opinion as to the ethical propriety of someone in a supervisory position (SRA) requesting subordinates to donate money toward an office function.

KRS 11A.005(1)(d) 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;
 - (b) Government policy and decisions be made through the established processes of government;
 - (c) A public servant not use public office to obtain private benefits; and
 - (d) The public has confidence in the integrity of its government and public servants.

Additionally, 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.

Although, the Executive Branch Code of Ethics does not appear to specifically prohibit employees from soliciting other employees within state government employment for monetary donations, the Commission envisions certain circumstances where improprieties could arise through such activity, even for a worthwhile cause such as this.

The Commission believes that management employees who may be solicited by the SRA, and also are under the supervision of the SRA, may feel undue pressure, or an obligation, to contribute to the expenses of the banquet simply from the fact that the solicitation is by their superior. Thus, the SRA, although possibly unintentionally, may appear to be using his official position to give an advantage to the R & C unit.

Consequently, supervisory employees should not solicit employees under their direct or indirect supervision. Employees would not be prohibited from soliciting other employees not under their supervision.

BY CHAIR: Joseph B. Helm, Jr.