

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 05-38**

November 4, 2005

RE: May Board members attend conference and accept food and drink from vendors of agency?

DECISION: They may attend, but should reimburse any vendors of the agency.

This opinion is issued in response to your September 23, 2005 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the November 4, 2005 meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Kentucky Retirement Systems ("KRS") would like to send representatives from its Board of Trustees to a conference on public funds presented by a financial group. There is no registration or attendance fee for the conference. The KRS plans to pay for the travel and lodging expenses for the Board members attending the conference. The tentative agenda includes a number of workshops and seminars, but also includes several social gatherings, receptions, and meals. All of these additional activities are free to persons attending the conference.

The conference is sponsored by at least one company that is currently a vendor to the KRS. Sponsors are still being recruited.

The KRS seeks an advisory opinion as to (1) whether it is permissible to send members of its Board to this conference; (2) whether the KRS must reimburse the financial group for the fair market value of the conference if it does send Board members; or (3) whether the KRS may send Board member to the conference and not reimburse the financial group for the fair market value of the conference.

The Commission believes that it is permissible for the KRS to send Board members to the conference presented by the financial group. However, the Board members may be limited in what they may accept from sponsor vendors as provided below.

KRS 11A.045 (1) provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year 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. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

KRS 11A.001 (5) provides:

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

The Commission does not believe that attending a conference that is strictly dissemination of information that is free to all attending is considered a "gift" as defined in KRS 11A. However, it does believe that food and drink provided at social gatherings, receptions and meals would be considered gifts provided by the sponsors. If such gifts are not included in a registration fee, but are provided gratuitously, then the Board members should not accept such gifts from sponsors who may be doing business with the KRS if the value of such gifts exceeds \$25 per source, per year.

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The Board members may participate in such social gatherings, receptions and meals, but either the Board members or KRS should reimburse any sponsors with which the KRS does business for the fair market value of any gifts or gratuities, including food and drink if the value exceeds \$25 per person.

Sincerely

EXECUTIVE BRANCH ETHICS COMMISSION

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BY CHAIR: John A. Webb