

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 05-39**

December 16, 2005

RE: May employee sell pre-paid legal services to fellow employees at worksite?

DECISION: Yes, within limitations.

This opinion is issued in response to your November 18, 2005 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 16, 2005 meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are employed as a Family Support Specialist III for the Cabinet for Health and Family Services (the "Cabinet"). You have no one under your supervision and you work alone organizing and maintaining the discontinued file room for Jefferson County Family Support.

In addition, you are self-employed as an independent associate for a prepaid legal services company. The company offers a variety of services by a reputable law firm, such as will writing, representation for traffic violations, identity theft protection, and help with credit concerns, to anyone who is a member.

As an associate for the company, you provide presentations of the product to employees of various companies and offices at a work site, much like life insurance and deferred compensation companies. You normally provide such presentations to individuals in a conference room or break room.

You ask whether you may make such presentations on a one-on-one basis to employees of the Cabinet during employee break times in state office conference rooms or break rooms. The company for which you work is on the list of vendors that may be payroll deducted for state employees.

KRS 11A.020(1)(a), (c) and (d) provide:

- (1) No public servant, by himself or through others, shall knowingly:
  - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
  - ...
  - (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or
  - (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.

Please find enclosed Advisory Opinion 98-8 which states that an employee may sell pre-paid legal services on his own time, provided the employee does not solicit individuals who do business with or are regulated by the state agency for which the employee works. Similarly, you are not prohibited from working as an associate for a pre-paid legal services company on your own time provided you do not attempt to sell such services to individuals or employees that do business with or are regulated by the Cabinet.

You are not prohibited from soliciting state employees, provided you do not use your influence or official position to obtain sales from a fellow employee. Further, you should make a clear distinction between your official duties for the Cabinet and your private business. For instance, you should not solicit private business or make contacts during state-paid work hours for the benefit of your private business, and there should be no advertising of your private business at the state worksite.

Further, you should not use your official position to gain an advantage in securing state sites to make presentations to employees. Although, you state that you have no supervisory authority, mere use of the worksite to make presentations where you are currently employed may appear to give you an advantage. Thus, the Commission advises you that to avoid any potential

EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 05-39  
December 16, 2005  
Page Three

conflicts, you should not make presentations to state employees at the worksite location where you are employed, even during your break times. The Commission believes that such an appearance of a conflict will not exist, however if you make presentations at state offices, other than the one by which you are employed, provided you have no supervisory or regulatory authority over such offices. No state time, employees or equipment should be used in the presentation of the product to employees.

Sincerely

EXECUTIVE BRANCH ETHICS COMMISSION

---

BY CHAIR: John A. Webb

Enclosure      Advisory Opinion 98-8