

Executive Branch Ethics Commission
ADVISORY OPINION 07-4
February 23, 2007

AUTHORIZATION FOR EXCEPTION TO KRS 11A.0405(1)

EXCEPTION NO. 2007-1

RE: May Transportation Cabinet employee diagnosed with leukemia accept donations from contractors?

DECISION: Yes.

This opinion is issued in response to your January 18, 2007 request for an exception to KRS 11A.045(1) from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 23, 2007 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. A 33-year-old employee under your supervision in District 7 of the Transportation Cabinet ("Cabinet") was diagnosed with leukemia on December 27, 2006. Your office has asked for donations for him and his family from within the Cabinet and wish also to accept donations from contractors of the Cabinet. The employee works with several highway contractors as a part of his job duties, and many of those contractors have offered to make a donation. You believe that the employee will be on leave from his position until the fall, if he is able to return at all. You ask: *Are we ethically able to ask and accept donations from these contractors, who deal directly with the State, for this employee?*

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

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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. (Emphasis added).

The Commission authorizes an exception to allow the employee to accept donations from highway contractors who may do business with or be regulated by the Transportation Cabinet and with whom the employee has direct contact as part of his official duty. The Commission believes that its exception authorization was created for such circumstances, and it believes an appearance of impropriety will not be created in a situation such as this. Also, see Advisory Opinion 05-37, enclosed.

The Commission does caution the other employees of the Cabinet, however, not to **solicit** such donations (for the benefit of the employee) from contractors. Further, the Commission advises that for six months after returning to work the employee should not be involved in inspecting any contractors from whom he accepted donations.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: John A. Webb