

Executive Branch Ethics Commission
ADVISORY OPINION 07-18
June 29, 2007

RE: May candidate's website link to and/or display information from governmental websites?

DECISION: Yes.

This opinion is issued in response to your May 6, 2007 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 29, 2007 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. It is improper to use governmental resources for a partisan political campaign. For example, an employee should not use a government fax machine to send campaign materials, office space for campaign strategy meetings, or the state emails system to send political messages. On the other hand, you assert that government work products, such as government reports, press releases, etc. may be used in partisan political campaigns (though the cost of reproduction is typically borne by the campaign).

Changes in technology and the use of the internet are raising new questions about the permissible use in partisan political campaigns. Many government websites have video and reports produced by government agencies which are available to the public at large through the internet. Access through the internet to government websites uses government resources in two ways: 1) video reports are hosted on servers paid by the governmental agency, and 2) the governmental agency also pays for the communication lines to its servers. Thus, you believe the internet is blurring the distinction between government resources and government work products.

You ask the following questions and seek guidance from the Commission for future decision making:

1. *May a candidate's website contain a direct link to external documents, images, and videos that are posted on government websites and available to the public?*
2. *In order to reduce or eliminate bandwidth demands by campaign websites on government-funded servers, may documents, images, and videos that are posted on government websites and available to the public be directly copied and stored on the server of a campaign website, for display within web page on the candidate's website?*

3. *Is any kind of citation, attribution or disclaimer required for resources originally hosted on a publicly available government website?*

KRS 11A.020(1)(a) 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;
 - ...
 - (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.

The Commission agrees that it is improper for public servants to use governmental resources such as office space, equipment, and electronic mail systems for the benefit of a political campaign. On the other hand, the Commission believes that a link on a candidate's website to a governmental website that is also available to the general public is not prohibited by the executive branch code of ethics ("code of ethics"). A candidate has the same rights as the general public to access public information for his personal use.

Moreover, it does not appear that candidates are prohibited by the code of ethics from copying onto their campaign websites any documents, images, and videos that are posted on government websites and available to the public provided such copying and use of information on a personal campaign website is allowed by law. A citation, attribution or disclaimer would only be needed if laws regarding such copying and posting of information require the source to be cited.

With that said however, the Commission does believe that if a public servant uses state resources (time, equipment) to have information displayed on a public governmental website that is strictly an attempt to give an advantage to himself or another person in a political campaign, the public servant may be using his official position to give himself or others an advantage in disregard of the public interest and in violation of KRS 11A.020(1) above. The Commission recognizes that some information that is worthwhile for a governmental agency to post on its website may at the same time give an advantage to a political candidate. Accordingly, the Commission cautions any public servant who also may be responsible for a campaign website and wishes to avoid even an appearance of a conflict of interest for himself, or the candidate, to refrain from including any links or information that may give the appearance that the candidate's official position is being used to give himself an unfair advantage.

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The Commission is not discouraging candidates who are also public servants from publicizing the accomplishments of their offices when the general public needs to be aware of such information, but warns such public servants not to use state time and resources to directly promote their campaigns.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: John A. Webb

Enclosures: Advisory Opinion 04-34
Advisory Opinion 06-14