

Executive Branch Ethics Commission

**ADVISORY OPINION 08-5**

May 9, 2008

- RE:**
- 1) May executive director accept organization's offer to pay for attendance at conference?
  - 2) May agency accept travel and hotel accommodations from testing service for staff member to attend conference?
- DECISION:**
- 1) Dissemination of information may be accepted if no registration fee is charged others to attend; however, travel expenses may not be accepted.
  - 2) No.

This opinion is issued in response to your February 29, 2008 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 9, 2008 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. According to your request, the Executive Director of the Education Professional Standards Board ("EPSB") has been invited to attend, free of charge, a Council of Chief State School Officers' ("CCSSO") conference on the future of teaching. You indicate that the EPSB does not have a contractual relationship with CCSSO or with the event's co-sponsor. Since your agency is interested in advances in teaching, you indicate that this event would be a wonderful opportunity to learn what other states and private groups are doing in this regard. Further, due to the budget crisis, you inquire as to whether there would be any issue with the Executive Director accepting CCSSO's offer to pay for attendance at the conference.

Your second question involves a testing service organization that administers proficiency tests, which your board requires applicants to take. While EPSB does not have a contract with the testing service, it does provide the testing service with a revenue stream. You indicate that the testing service has an annual conference at which testing procedures and issues are discussed, and that you usually send two individuals who monitor testing for you to this conference. The testing service organization offers to pay you to send one representative to the conference, but your agency has declined the offer due to the appearance of impropriety. However, in light of the budget situation, you ask whether it would be possible to allow the testing service organization to pay for one staff member's travel and hotel accommodations for the conference.

**EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 08-5**

May 9, 2008

Page Two

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 (emphasis added)**. 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.

The Commission has addressed this issue in many previously issued advisory opinions, stating that KRS Chapter 11A does not prohibit employees from accepting gifts, including travel expense reimbursement, from a professional association or organization, provided the agency for which the employee works does not do business with or regulate the association or organization, or the members of the association or organization. However, in its review of this matter, the Commission notes that the webpage of CCSSO states that it is an organization comprised of public officials who head departments of elementary and secondary education. CCSSO provides leadership, advocacy, and technical assistance on major educational issues. Thus, it appears to the Commission that CCSSO has as its primary purpose the representation of individuals who are directly regulated by the EPSB.

However, the Commission also has stated in previously issued advisory opinions (copies of which are enclosed) that attending a conference that is strictly dissemination of information that is free to all attending is not considered a “gift” as defined in KRS Chapter 11A. Thus, if no participants are being charged a registration fee to attend the CCSSO conference, the executive director may attend the conference free of charge, but may not accept any reimbursement for travel expenses, meals or lodging from CCSSO since the EPSB appears to directly regulate the members of CCSSO.

Similarly, since EPSB makes decisions as to which testing service will administer the proficiency tests required to be taken by applicants, and for which the testing service organization apparently charges a fee, it would not be appropriate for EPSB or its employees to

**EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 08-5**

May 9, 2008

Page Three

accept travel expenses or hotel accommodations from the testing service organization. The testing service obviously seeks to influence decisions of ESPB regarding its continued administration of such proficiency tests.

Sincerely,

**EXECUTIVE BRANCH ETHICS COMMISSION**

---

By Chair: John A. Webb

Enclosures: Advisory Opinion 00-70  
Advisory Opinion 01-30  
Advisory Opinion 04-42  
Advisory Opinion 05-38