

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 21

June 7, 1993

RE: Is it a violation of KRS Chapter 11A for a state employee to prepare a grievance on state time (while on duty), using office equipment and supplies for that purpose?

This letter is in response to your April 6, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 7, 1993 meeting of the Commission and the following opinion is issued.

In response to the specific questions posed in your letter, the Commission is of the opinion that all four activities (viz., using state office equipment and supplies to prepare a grievance on state time, using the state telephone to gather information in support of a grievance, appeal or complaint on state time, using the state telephone to consult with an attorney in regards to a grievance, complaint or appeal on state time and using the state's equipment and supplies in regards to inquiries relating to employment and employment status) present a violation of KRS 11A.020(1)(d), which provides as follows:

(1) No public servant, by himself or through others, shall knowingly:

...

(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 believes that to use state time or state equipment and supplies to pursue a grievance, appeal or complaint is to use one's official position to secure "treatment" for the state employee and, further, that such use of one's official position is in derogation of the public interest at large.

In addition, the activities described above may well violate KRS 11A.020(2), which provides as follows:

If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

In a situation in which a state employee is "appearing" before the state Personnel Board, the activities described above could lead the general public to conclude the state employee is using his official position to further his professional or private interests.

The Commission has been informed that the above opinion is consistent with existing Department of Personnel policy and the employee handbook.

The Commission hopes that this information is useful to you and your clients.