

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 93-74**

November 22, 1993

RE: May Executive Director or staff of Council on Higher Education accept a meal or gift from public institutions of higher education?

This opinion is in response to your October 25, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the November 22, 1993, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. As the Executive Director of the Council on Higher Education, you attend various functions at universities and community colleges. These functions sometimes include a meal provided by the institution or tickets to athletic events. You ask if it is a conflict of interest for you or a member of your staff to accept a meal or ticket to an athletic event from a public institution of higher education. You also ask if the Commission agrees with your interpretation that members of the Council on Higher Education are not subject to the Executive Branch Code of Ethics.

The Council on Higher Education oversees the public institutions of higher education. This responsibility includes determining overall needs of higher education, determining tuition and minimum qualifications for admission, reviewing and recommending budget requests, and reviewing and approving all capital construction projects which exceed \$200,000.

KRS 11A.005(1) provides:

- (1) It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:
  - (a) A public servant be independent and impartial;
  - (b) Government policy and decisions be made through the established processes of government;
  - (c) A public servant not use public office to obtain private benefits; and
  - (d) The public has confidence in the integrity of its government and public servants.

The Commission believes that in your capacity as Executive Director of the agency that regulates state institutions of higher education you should not accept meals or tickets to athletic events from those institutions. The acceptance of meals or athletic event tickets may appear to be a conflict of interest due to the control you and your staff have over the institutions.

You may accept "punch and cookies" or similar refreshment when attending institution events. Additionally, if you are a speaker or panel participant at such an event, you may accept a meal which is served as a part of the program and is available to all those in attendance, assuming that your attendance is part of your official duty. This conclusion also applies to any staff who may represent you.

In Advisory Opinion 93-53 (a copy of which is enclosed), the Commission held that most part-time board and commission members paid on a per diem basis are not public servants as defined in KRS Chapter 11A, and thus, not subject to the Executive Branch Code of Ethics. Therefore, the Commission agrees with your interpretation that members of the Council on Higher Education are not subject to the provisions of KRS Chapter 11A.