

**EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 86**

December 16, 1993

RE: May state employee hold personal service contract with Kentucky Educational Television?

This opinion is in response to your November 16, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 16, 1993, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. Kentucky Educational Television (KET) airs a television series which is hosted by an employee of the Department of Education. The host holds a personal service contract with KET and is paid \$200 per show plus travel expenses.

Other "experts" who appear on the show as panel participants may include state and state university employees. These panel members are paid an honorarium of \$100 each plus travel expenses. You ask whether the payments, including travel expenses, made to the host and panel members who are state or state university employees are in violation of the Executive Branch Code of Ethics.

KRS 11A.040(4) and (5) provide:

(4) No public servant shall knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by any state agency. This provision shall not apply to a contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain or to agreements which may directly or indirectly involve public funds disbursed through entitlement programs.

(5) No public servant shall knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

The host of the show, as an executive branch employee, is prohibited from holding a contract or agreement with any state agency. The Commission proposes the following solution. The host may provide the service to KET as part of his state employment with the approval of his agency. Any time spent hosting the show outside normal working hours may be paid by the host's agency in the form of overtime or compensatory time. The Department of Education may charge KET, through interaccount, for the host's travel expense and time spent on

the show.

The conclusion above also applies to any experts who appear on the show who are executive branch employees. State university employees are not considered executive branch employees and thus are not subject to the prohibitions in KRS Chapter 11A.