

ADVISORY OPINION 94 - 48

September 13, 1994

RE: Does the Code of Ethics prohibit state plumbing inspectors from teaching classes on their own time?

DECISION: No, but supervisors' approvals are required.

This opinion is in response to your August 24, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 13, 1994, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. Several plumbing inspectors within the Department of Housing, Buildings and Construction of the Public Protection and Regulation Cabinet wish to teach state plumbing code classes at local vocational schools on their own time. These classes are conducted by the Workforce Development Cabinet. The inspectors will be hired as employees of the Workforce Cabinet to perform this service. You ask whether the ethics law in KRS Chapter 11A prohibits this type of activity. Your agency does not view this as a conflict.

KRS 11A.040(4) provides:

(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.

Inspectors employed by both the Department of Housing, Buildings and Construction and the Workforce Development Cabinet maintain dual employment. The provision of the Executive Branch Code of Ethics cited above does not prohibit employees from dual employment within the executive branch. However, administrative regulation 101 KAR 2:095 does require approval for dual employment as stated below:

Section 3. Dual Employment.

No employee holding a full-time position with the Commonwealth may hold another state position except upon recommendation of the appointing authority and the written approval of the commissioner. A copy of such written approval and a statement of the reasons therefor shall be transmitted to the Governor and the Director of the Legislative Research Commission. A complete list of all employees holding more than one (1) state position shall be furnished to the Legislative Research Commission quarterly by the commissioner.

The Commission believes the inspectors may teach classes for the Workforce Development Cabinet if they obtain the necessary approvals.