

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 95-11
March 23, 1995

RE: May an employee of the Department of Corrections accept payment from a film production company for appearing in a film produced in part at a penitentiary where the employee works?

DECISION: Yes, as long as the employee was not involved in establishing the contract between his state agency and the film production company.

This opinion is in response to your March 7, 1995, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the March 23, 1995, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. The Department of Corrections (the "Department") has entered into a contract with a film production company whereby the company will film a portion of a major motion picture at the Kentucky State Penitentiary ("Penitentiary"). The Penitentiary will receive reimbursement for expenses as a result of the filming. The producer and director of the film would like to use several staff members of the Penitentiary as extras in the film. The prison staff who choose to participate in the film would do so during their off-duty hours. The producer would like to compensate the state employees for their work in the film. You ask whether accepting this donation violates the Ethics Code.

KRS 11A.040(9) provides:

(9) Without the approval of the commission, no public servant shall accept outside employment from any person or business that does business with or is regulated by the state agency procedure for the approval of outside employment of a public servant, including a requirement that the public servant and his appointing authority state in writing that the public servant is not in a position to influence any agency decision relating to the outside employer.

for which the public serva

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 95-11

March 23, 1995

Page Two

The Department employees who wish to accept compensation from the Company must obtain the permission of this Commission since the Company has a contractual relationship with the Department. The Commission has detailed in an administrative regulation, 9 KAR 1:050, how this permission should be requested.

In this situation the employees will be performing their outside employment with the company on a one-time basis. Furthermore, the filming will occur in the very near future, and the employees will not have adequate time to obtain individually the Commission's permission for outside employment.

Therefore, for the purposes of this case only, the Commission permits an employee of the Department to accept compensation from the Company for participation in the filming prior to receiving the Commission's approval of outside employment. Employees who accept such compensation shall not have been involved in any manner with the negotiation or procurement of the contract between the Department and the Company. Each employee who participates in the filming and is compensated by the Company shall submit to the Commission the information required in 9 KAR 1:050 prior to the filming.

EXECUTIVE BRANCH ETHICS COMMISSION

BY: Livingston Taylor, Chairman