

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 95-26**

June 27, 1995

RE: Is it a violation of the ethics code for a local board of education to subsidize the salary of an area technology center principal who supervises instructors paid by the local board of education?

DECISION: Yes, unless approval has been given by the Commission.

This opinion is in response to your May 30, 1995, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 27, 1995, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. An area technology center principal employed and paid by the Department for Technical Education ("KY-TECH") within the Workforce Development Cabinet is responsible for supervising KY-TECH instructors. In addition, the principal supervises instructors who are paid by the local school district to teach KY-TECH students.

The local board of education subsidizes the salary of the principal in addition to his full-time pay from KY-TECH. You question the legality of this pay and would like an opinion on the matter from the Commission.

KRS 11A.040(5) provides:

(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.

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Thus, if the principal's supervision of instructors for the local school district is part of his official duties for KY-TECH, he should not accept compensation other than that provided him as compensation for his position with KY-TECH. The Commission has not given any prior approval to accept such compensation.

Any supervision which is not part of the principal's official duty as a state employee would be considered outside employment and, because of the business relationship between the local school district and KY-TECH, must be approved by the Commission as provided by KRS 11A.040(9) below:

(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 for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds. The commission shall promulgate administrative regulations to establish a 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.

We enclose a copy of the regulation (9 KAR 1:050) describing the procedure by which the principal may apply for approval of outside employment if the principal and his appointing authority determine that such procedure is applicable in this case.

EXECUTIVE BRANCH ETHICS COMMISSION

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BY: Livingston Taylor, Chairman

Enclosure: 9 KAR 1:050