

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 96-24**

May 14, 1996

RE: May agency accept donations for local business for foster care program?

DECISION: No, if Department does business with local merchant.

This opinion is in response to your February 28, 1996, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 14, 1996, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Department for Social Services (the "Department") within the Cabinet for Families and Children (the "Cabinet") is responsible for the placement of neglected or abused children in foster care homes. In placing a child in a foster care home, the Department tries to keep the child within his same local community. Removal of a child from his community, as well as his home, lessens the contact between the parent and child, thus leading to a diminution of the relationship between parent and child. Thus, the Department believes that local community support is vital to the foster care program.

The Department looks to the community for assistance and help in caring for its foster children by including churches, merchants and social organizations in activities designed to recruit foster homes and encourage participation in activities for foster care children and teens.

Churches, local businesses and local social organizations are solicited by the Department to support their community's foster parents and children. In many communities, these groups provide food for parties, Christmas gifts and other items for activities of the communities' foster children.

Local merchants, such as discount department stores, groceries, gas stations and hotel/motels, often donate items for foster care activities sponsored by the Department. Such items are used for foster parents appreciation events, training sessions for teens in foster care, and foster parent or teen conferences. In many instances, the Department does business with the local merchant or business donating gratuities. Local Department offices have accounts at discount department stores and local groceries to charge clothing for foster children and supplies/refreshments for foster parent training events. The Department utilizes various hotels/motels throughout the state for training sessions. Gas is purchased for Department vehicles from local gas stations.

The Cabinet believes that Advisory Opinion 94-50 issued by the Commission does not preclude the Department from soliciting such gratuities from local merchants and businesses. You state that the Department's acceptance of donations for foster care activities from local merchants that do business with the Department would in no way act in derogation of the independence and impartiality of the employees of the Department. You believe that any

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improper influence or pressure that could possibly be applied to either the agency or the local businesses as a result of the above activities is minimized by the provisions of Kentucky's Model Procurement Code. You ask for an opinion from the Commission as to whether the Department may continue to accept donations for the foster care program from businesses with which it may do business.

KRS 11A.005(1)(a) and (d) state:

(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;

...

(d) The public has confidence in the integrity of its government and public servants.

Although the Commission commends the Department for its efforts to involve the Community in foster care efforts, the Commission believes such involvement should be accomplished without the solicitation or acceptance of donations from local merchants or businesses which do business with the Department. Advisory Opinion 94-50, to which you refer, states that, despite the existence of a worthy cause for which the solicitation is made, an executive branch employee should not solicit or accept donations from those who do business with or are regulated by the employee's agency.

The foster care program is not prohibited from accepting donations from churches and social organizations which are not regulated by or doing business with the Department. In addition, the Commission believes that Department employees may work with local merchants, who may do business with the Department, in an effort to involve the community in foster care events as long as donations are not accepted.

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BY: Ruth H. Baxter, Chair