

ADVISORY OPINION 97-24

December 16, 1997

RE: May employee accept reimbursement for time and travel expense from university for training provided for staff of another state?

DECISION: Yes.

This opinion is in response to your September 12, 1997, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the October 7 and December 16, 1997 meetings of the Commission and the following opinion is issued.

The following facts regarding this matter are presented as follow. An employee of the Department of Juvenile Justice (the "Department") has been asked by the University of Louisville, Center for Family Resources (the "Center") to provide one day of training in conjunction with a one-week institute which the Center is providing for staff in the state of Missouri. The Center currently holds a Memorandum of Agreement ("MOA") with the Department through which the Center, for a fee, provides training for the Department for two specific certification programs. The curriculum for these programs was originally written by the Department, and the Center was asked by the Department to develop courses to present which would provide college credit for employees of the Department. Thus, the Center is the only entity which provides such training. Other universities specialize in other areas of training which are provided to the Department.

The MOA provides that the courses be taught by Center staff with the assistance of Department Staff in order to assure the quality and continuity of the classes. Thus, the employee mentioned above assists the Center four to five times per year in providing up to one week of training for the Juvenile Sexual Offender Counselor Program administered through the Center. These trainings are provided separately for both Department and Center staff. The Department allows the employee to assist with this training for the Center as part of her official duty for the Department. However, during the time she presents training to the staff of the state of Missouri, the employee will take annual leave.

Additionally, because the curriculum for the courses was developed by the Department, the agreement between the State of Missouri and the Center allows for any proceeds from the class offered in Missouri to benefit the Department.

You ask whether the employee may accept compensation and travel expense reimbursement from the Center for the training she provides in Missouri. Additionally, you ask whether the Center may pay for the employee to obtain training she needs in order to remain current in the state of the art information and materials for the training she provides for the Center. The employee is considered an expert in this field. Although there are other qualified applicants available to provide this training, she s the best.

KRS 11A.005(1) provides:

- (1) It is the public policy of this Commonwealth that a public servant 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'
 - (b) Government policy and decisions be made through the established processes of government;
 - (c) A public servant not use public office to obtain private benefits; and
 - (d) The public has confidence in the integrity of its government and public servants.

Advisory Opinion 95-16 (a copy of which is provided), issued by the Commission, allowed a state university to pay the educational expenses of an employee of a state agency which held a contract with the university through which the state agency paid the university for provided services. The contract between the university and the state agency was one for which there was not competition, but was one of necessity, issued because of the collaborative nature of the services being provided.

Similarly, the training provided by the Center is a service for which there appears to be no competition. Because the curriculum was specifically developed for the Department, no other university offers such classes. Furthermore, it appears that the certification program and the courses provided are a collaborative effort between the Department and the Center. The Center does not appear to be seeking something (such as the renewal of a contract) from the Department.

Thus, the Commission, believes, in this instance, the employee may accept compensation and travel expense reimbursement from the Center, provided she uses leave time for the training provided in Missouri. Additionally, the Center may also pay for any training which she needs to remain current in the field.

Enclosure: AO 95-16