

## ADVISORY OPINION 98-13

April 8, 1998

RE: May state official write endorsement letter for nonprofit organization to use in its fundraising activities?

DECISION: Yes, within limitations.

This opinion is in response to your February 18, 1998, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 26, and April 8, 1998, meetings of the Commission, and the following opinion is issued.

You provide the relevant facts as follows. You serve as a director for a Young Men's Christian Association ("YMCA") which is planning to initiate a fundraising effort. You would like for the Governor to support the YMCA's fundraising efforts through an endorsement letter that will be used for solicitation. The Governor will not direct the letter to particular entities or individuals, nor will he be aware of those entities or individuals that contribute funds. The YMCA will solicit and receive the funds, and handle all record keeping of contributors. The letter will be used exclusively for the benefit of the YMCA.

You ask whether an executive branch official (including, but not only the Governor) may write a letter of support or endorsement for private 501(c)(3) organization and its fund-raising activities. You believe the exposure and influence of certain government positions give them enormous potential for community good.

KRS 11A.020(1)(d) provides:

(1) No public servant, by himself or through others, shall knowingly:

...

(d) Use or attempt to use his official position to secure or create privileges exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

Generally, the Commission believes that state officials are not permitted to write letters on state government stationery endorsing or promoting any product, service or business, or any candidate for elective office. However, according to Advisory Opinion 94-38, an official may use his official title and personal stationery to write a letter of endorsement or solicit donations for non-profit organizations from entities that do no business with and are not regulated by an agency under the ultimate supervision of the official.

Even though the state official may not be aware of the entities solicited or those

which donate, an entity may feel an obligation to donate if an endorsement letter is received from an official who has ultimate authority over the state agency with which the entity does or seeks to do business. Additionally, representatives of an entity regulated by a state agency may feel an obligation or necessity to donate to the cause if the official has ultimate authority over decisions affecting the entity. Solicitation through such endorsement letters may cause harm to the public confidence in the integrity of state government.

Although such endorsement letters may be beneficial for the common good, we do not believe that an entity should feel an obligation or a necessity to donate to a cause because of the source of the solicitation, such as a state official.

Thus, the Commission believes that it is inappropriate for a state official to allow a nonprofit organization to send an endorsement letter to entities doing business with or seeking to do business with, or regulated by, agencies of state government under the ultimate jurisdiction of the state official.

Part of the mission of the Governor, as well as certain other state officials, is to promote and encourage the development of Kentucky products, services and businesses. Any letters of endorsement written within statutory authority by state officials for the purpose of promoting such development are permitted.