

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 99-1
RECONSIDERATION OF 97-26

February 18, 1999

RE: May employee of Kentucky State Board of Registration for Professional Engineers and Land Surveyors present continuing education seminars for compensation to land surveyors who are regulated by the Board for which the employee works?

DECISION: No.

This opinion is in response to your January 6, 1999, request for reconsideration of Advisory Opinion 97-26. This matter was reviewed at the February 18, 1999, meeting of the Executive Branch Ethics Commission (the "Commission"), and the following opinion is issued.

You state the relevant facts as follows. You are the General Counsel for the Kentucky State Board of Registration for Professional Engineers and Land Surveyors (the "Board"). The Board regulates and licenses land surveyors. KRS 322.290(h) requires the Board to adopt a program for continuing education for land surveyors. Pursuant to that statute, the Board promulgated 201 KAR 18:190, which establishes the program (CPD). This regulation requires every land surveyor to complete eight hours of CPD training every year. You have been asked by a professional land surveyors association to present a continuing education seminar regarding "boundary law", which has been approved by the CPD committee, as it contains subject matter relevant to the practice of land surveying. You would like to be compensated for your presentation as other lecturers are compensated for their presentations. You state your knowledge and expertise regarding "boundary law" was acquired, prior to your being employed by the Board, in your private practice that was devoted exclusively to boundary disputes. Your position as General Counsel for the Board does not require you to have any knowledge of "boundary law" and the Board does not ever, except in highly unusual circumstances, concern itself with "boundary law". You ask the Commission to reconsider Advisory Opinion 97-26 that stated it would be a conflict of interest for you to provide the continuing education seminars for compensation to land surveyors.

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 99-1

February 18, 1999

Page Two

In Advisory Opinion 97-26, the Commission stated that your involvement in Board matters concerning land surveyors and your seeking the same land surveyors as private customers, presents a conflict of interest between your official duties and your private interests. You state in response that you have never solicited participants for seminars, nor advertised them, nor arranged or scheduled them. You state that your lectures are strictly at the request of the parent organization or local chapters that are responsible also for arranging the seminar.

Additionally, the Commission stated the fact that the seminars you present must be approved by the Board also presents a conflict of interest. You state in response that the seminars you present on behalf of the professional land surveyors association do not have to be approved by the Board because the association is an approved CPD course sponsor and any course they sponsor is automatically pre-approved without prior review by the Board. Additionally, you state that you are not a part of the CPD committee; have never attended a meeting of the CPD committee; nor have you ever had occasion to advise the CPD Committee on the approval of seminars for CPD credit.

The Commission believes the fact that you would be accepting compensation from an association that is made up of individuals who are regulated by the agency for which you work creates a conflict of interest. See KRS 11A.020(1). The Commission believes you are free to present continuing education seminars regarding "boundary law" for compensation to other groups or individuals who are not regulated by or doing business with the agency for which you work provided the seminars do not have to be approved by the CPD committee.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Don A. Wimberly

April 10, 2008

B. R. Salyer, General Counsel
Kentucky State Board of Licensure for
Professional Engineers and Land Surveyors
Kentucky Engineering Center
160 Democrat Drive
Frankfort, Kentucky 40601

Reference: 021899.4 (reconsideration of 97-26)

Dear Mr. Salyer:

At its February 18, 1999 meeting, the Executive Branch Ethics Commission took up your request, dated January 6, 1999, in which you ask whether an employee of the Kentucky State Board of Registration for Professional Engineers and Land Surveyors may present continuing education seminars for compensation to land surveyors who are regulated by the Board for which the employee works.

The enclosed Advisory Opinion 99-1 is issued in response to your inquiry.

Sincerely,

Jill LeMaster, Executive Director

Enclosure: Advisory Opinion 99-1