

## **AUTHORIZATION FOR EXCEPTION TO KRS 11A.045(1)**

### **EXCEPTION NO. 2000-1**

August 18, 2000

This authorization is in response to your August 1, 2000, request for an exception to KRS 11A.045(1) from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the August 18, 2000, meeting of the Commission and the following authorization is issued.

You state the relevant facts as follows. KRS 11A.045(1) prohibits a state employee from accepting donations from persons or businesses that do business with or are regulated by the state agency for which the employee works. In Advisory Opinion 99-41, the Commission opined that the departments within the Workforce Development Cabinet are not separate and independent for purposes of KRS Chapter 11A.

Effective July 14, 2000, KRS 11A.045(1) was amended to allow the Commission to authorize exceptions to the prohibition against the acceptance of donations where the exemption would not create an appearance of impropriety. The Office of the General Counsel for the Workforce Development Cabinet requests an exception in the following circumstance.

The Department for Employment Services ("DES"), a department within the Workforce Development Cabinet (the "Cabinet"), regulates, through its Unemployment Insurance Program, nearly all businesses in the Commonwealth of Kentucky. You believe that an appearance of impropriety would not be created if an employee of another department in the Workforce Development Cabinet accepted gifts from a business that was subject to unemployment insurance regulation but had no relationship with the department for which the employee works. Thus, you are asking for an exception to KRS 11A.045 (1) that would allow employees in the Workforce Development Cabinet in departments other than DES to accept gifts from persons or businesses that are regulated by DES, provided they have no relationship with other departments of the Cabinet.

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You believe that a donation of materials to a Department of Technical Education area technology center by a company regulated by DES would not create any conflicts or an appearance of a conflict for the Cabinet. Other departments in the Cabinet include:

- Department for Adult Education and Literacy;
- Department for the Blind
- Department for Vocational Rehabilitation;
- Department of Technical Education; and
- Office of Training and ReEmployment.

The Cabinet for Workforce Development specifically requests an exemption from KRS 11A.045(1) provided the donor's only connection to the Cabinet is regulation by the Unemployment Insurance Program and provided the employee is not employed by the Department for Employment Services.

KRS 11A.045(1) provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

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The Commission authorizes an exception to KRS 11A.045(1), as follows, for employees of the Workforce Development Cabinet who are not employed by the Department for Employment Services. This exception allows such employees to accept gifts from persons or businesses that are regulated by DES, but that are not doing business with, regulated by, or attempting to influence the actions of any other department of the Cabinet.

The Cabinet believes that, in the situation presented above, such an exemption will not create an appearance of impropriety for such employees.

**AUTHORIZED BY:**

EXECUTIVE BRANCH ETHICS COMMISSION

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BY CHAIR: Bertie Oldham Salyer, M.A., A.M.E.

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