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DANA COX NICKLES
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Executive Branch Ethics Commission
ADVISORY OPINION 09-27
September 18, 2009

RE: May Regional Librarians and other staff members of the Kentucky Department for Libraries and Archives accept a stipend for serving as mentors for public library staff members who are taking college classes toward the completion of associate's and bachelor's degrees at Bluegrass Community and Technical College and Northern Kentucky University?

DECISION: Yes.

This opinion is issued in response to your September 1, 2009 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 18, 2009 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows:

Northern Kentucky University ("NKU"), in partnership with Bluegrass Community and Technical College ("BCTC") and Kentucky Department for Libraries and Archives ("KDLA"), obtained a federal grant from the Institute for Museum and Library Services to provide scholarships for 50 staff members currently employed by local Kentucky public libraries. This grant is intended to increase the educational level of public library staff, and is focused on particular counties in Eastern and Western Kentucky wherein a greater need has been identified. A committee consisting of representatives from NKU, KDLA, and BCTC is selecting the scholarship recipients.

In addition to scholarships, the grant provides a stipend of five hundred dollars to librarians with Master's degrees to serve as mentors for the scholarship recipients. The mentors will support, motivate, and assist the scholarship students in completing college classes. Payments to the mentors will be made by NKU. The same committee that chooses the scholarship recipients will also select the mentors, and a librarian serving as a mentor may be assigned to more than one scholarship recipient. The committee will give first priority to public

library directors. However, there may not be enough public library directors to mentor all of the scholarship recipients, so it is possible that KDLA employees may be needed to serve as mentors as well.

There is no regulatory relationship between KDLA and public libraries. Instead, KDLA serves as a resource to public libraries by providing assistance in such areas as training, programming, library operations, and personnel. Eight regional librarians located throughout the state and other consultants located at the agency's office in Frankfort provide individualized consulting services upon request. If any KDLA employees were to serve as mentors, it would most likely be some of the eight regional librarians.

KRS 11A.040(10)(a) and (b) provide:

> (10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.
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> (a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.
>
> (b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.

In this instance, KRS 11A.040(10) would not prohibit KDLA librarians from serving as mentors, because NKU does not do business with and is not regulated by KDLA.

Further, KRS 11A.040(5) provides:

> (5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the Commission.

In receiving the stipend from NKU, a KDLA librarian serving as a mentor would be compensated for providing support, motivation, and assistance to one or more scholarship recipients in completing individual library studies coursework. The official duties of the KDLA librarians include providing specialized consulting services to public libraries. While it is true that the scholarship recipients are employed by public libraries and that KDLA librarians provide

consulting services to public libraries, the duties required of a mentor are not part of the official duties of a KDLA librarian. Serving as a mentor and receiving a stipend thus would not violate KRS 11A.040(5).

In conclusion, KDLA librarians may accept a stipend for serving as mentors for public library staff members who are taking college classes toward the completion of associate's and bachelor's degrees at Bluegrass Community and Technical College and Northern Kentucky University. Since such work would be outside the scope of their normal job duties, the KDLA librarians would need to perform their mentor duties on their own time and without the use of state resources that would not be available to the general public.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

Gwen R. Pinson

By Chair: Gwen R. Pinson