

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 00-9

February 25, 2000

RE: May employee whose job duties include work as a pilot seek outside employment as a pilot with Photo Science, Inc.?

DECISION: Yes.

This opinion is in response to your January 31, 2000, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 25, 2000, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. An employee of the Kentucky Department of Agriculture (the "Department") is seeking outside employment as a pilot with Photo Science, Inc. A portion of the employee's job duties with the Department includes work as a pilot. Photo Science, Inc. currently does not do business with the Department; however, Photo Science, Inc. does do business with other state agencies. You ask whether the employee's outside employment presents a conflict of interest.

The Commission believes the employee may accept outside employment as a pilot with Photo Science, Inc. Because Photo Science, Inc. does not do business with the Department, no potential for conflict is apparent. If Photo Science, Inc., seeks to do business with the Department, then the employee should obtain approval from his appointing authority for such employment pursuant to KRS 11A.040(10) and 9 KAR 1:050 (a copy of which is enclosed).

KRS 11A.040(10) provides:

Without the approval of his appointing authority, no public servant shall 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.

Furthermore, the employee should not use state time and equipment for his outside employment.

Enclosures: 9 KAR 1:050