

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 00-15
February 25, 2000

RE: May staff of the Kentucky Commission on Human Rights solicit for advertisements to benefit 40th Anniversary Program?

DECISION: No; but, within limitations, may allow separate entity to do so.

This opinion is in response to your February 4, 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. The Kentucky Commission on Human Rights ("KCHR") is organizing an educational and informative 40th Anniversary Program (the "Program") to be held at the Louisville Gardens on July 18, 2000. The Program will consist of a timeline of KCHR's history and accomplishments, and it will serve as a continuing opportunity to educate the public.

As part of this Program, KCHR will be identifying individuals to be a part of the Civil Rights Hall of Fame. The Hall of Fame will honor diverse individuals who have made great strides or contributions to the civil rights movement in Kentucky. The honorees will receive commemorative plaques during a presentation ceremony.

The KCHR plans to charge a registration fee for this event and coordinate the proper accounts for such fees with the Governor's Office for Policy and Management. In addition, the KCHR would like to sell advertisements in a Program booklet as a means of offsetting costs. You ask the following questions concerning the advertisements, the sponsorship of the Hall of Fame, and government interaction with the Program.

Program Booklet Advertisements

- *May KCHR enforcement and/or administrative staff mail letters to potential patrons requesting that they purchase advertisements in an informational program/booklet that will be printed for the celebration?*
- *What, if any, procedures will need to be implemented to prevent appearances of impropriety or conflicts of interests regarding the request for such advertisements (e.g. special letterhead, etc.)?*
- *If KCHR staff may not request such advertisements directly, may KCHR arrange for a sponsorship committee to ask companies or individuals to purchase such advertising? May KCHR staff (enforcement staff and/or administrative staff) provide clerical assistance?*
- *Will an escrow account need to be established to collect such advertisement fees, or how should such funds be collected? Who should handle such funds?*

- *May an outside organization (either non-profit or non-regulated) mail letters to potential patrons requesting that they purchase advertisements in a program/booklet that will be printed for the celebration?*

Hall of Fame Sponsorship

- *May KCHR staff find sponsors for the Hall of Fame (a mobile wall with depictions and information about the honorees), either from another governmental agency (Department of Education, county government, etc.) or from a private historical organization (museum or historical society)?*
- *May an outside organization (either non-profit or non-regulated) or a community partner pay for, solicit and provide the Hall of Fame?*

Governmental Interaction

- *May KCHR accept funds or other contributions from state and local governmental entities to assist with the funding of this event?*

Grant Proposals

- *Would anything in the ethics rules or regulations prohibit KCHR from applying for grants from federal agencies, state agencies, or other foundations (in accordance with their grant guidelines) to fund this educational event and/or the Hall of Fame?*

KRS 11A.005(1)(a) and (d) provide:

(1) It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:

(a) A public servant be independent and impartial;

....

(d) The public has confidence in the integrity of its government and public servants.

Employees of the KCHR who, as a part of their official duties, will be involved in planning and conducting the Program are advised not to solicit or accept donations from persons or businesses regulated by or doing business with the KCHR. Businesses regulated by the KCHR include any business with eight or more employees since there is a potential for such businesses to come under the regulatory control of the KCHR at any time. Solicitation or acceptance of donations by employees of the KCHR from entities that are potential vendors or may be regulated by the KCHR creates a conflict of interest in appearance, if not in fact, for those employees.

Additionally, enforcement and/or administrative staff of the KCHR should not be involved in contacting, either in person or by mail, vendors and those entities regulated by the KCHR for the sale of advertisements in an informational program/booklet that will be printed by KCHR for the Program. Although the entities contacted will receive a benefit for the purchase of the advertisement, because this event is sponsored by and may benefit the state agency, rather than a non-state organization, the Commission believes that such a sale of advertisements could create a conflict of interest for the KCHR.

The Commission believes that the KCHR may allow a sponsorship committee, an entity outside of state government that is not regulated by or doing business with the KCHR, to sell such advertisements, provided the KCHR is not involved in the maintaining or viewing of any records of contributions or of entities solicited. Such solicitations should not indicate in any way that the program/booklet is sponsored by the KCHR, although the solicitations may indicate that the program/booklet will be distributed at the Program. If the KCHR is not responsible for the funds received through the sale of the advertisements, then such funds are not required to be deposited in a state depository. However, if the KCHR is responsible for the funds solicited, then such monies should be deposited into a state account, pursuant to KRS 41.070(1).

Similarly, the KCHR may obtain a sponsor for the Hall of Fame provided the sponsor is not regulated by or doing business with the KCHR. The Commission advises the same limitations for such solicitation by the sponsor as provided above. The KCHR is not prohibited from accepting donations or grants from other state and federal agencies for this event; however, it is prohibited from accepting donations or grants from local governmental entities if such entities have the potential to be regulated by the KCHR.

Furthermore, any registration fee charged the general public for the event should be deposited to a state account and should only cover the cost of the event, not benefit the agency.