

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 00-25**  
April 28, 2000

RE: May Department of Housing, Buildings & Construction employee serve on and be compensated for his service on the Code Administrators Association of Kentucky Board?

DECISION: Yes, within limitations.

This opinion is in response to your March 2, 2000, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the April 28, 2000, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. An employee of the Department of Housing, Buildings and Construction (the "Department") has asked for some clarification regarding a possible position as a board member of the Code Administrators Association of Kentucky (CAAK). Currently, the employee is a technical advisor for the Department's Division of Building Codes Enforcement. The employee's job duties include providing technical advice to architects and engineers regarding building codes in buildings with one hundred (100) or more occupants. The CAAK is made up of local building inspectors who inspect buildings with less than 100 occupants or single family dwellings. The Department provides training to building inspectors and maintains the certification requirements for building inspectors, but the employee does not conduct training for the building inspectors, nor is the employee involved in the certification of building inspectors. The Department pays the annual dues for the employee to be a member of CAAK.

The employee expects to be elected treasurer and membership chairperson of CAAK at its meeting to be held in October. As treasurer, the employee will be responsible for maintaining CAAK's checking and money market accounts and responsible for payment of all bills. Expenses incurred to perform the treasurer duties will be paid by the CAAK. As membership chairperson, the employee will be responsible for keeping all membership records. The Board voted several years ago to pay the membership chairperson \$5.00 per member each year. The membership chairperson will pay expenses incurred to perform these duties.

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The employee asks whether his acceptance of the treasurer and membership chairperson positions would be a conflict of interest.

In Advisory Opinion 96-4, the Commission stated that it believed that, as long as a state employee was not involved in any agency decisions or discussions with respect to the outside employer, the state employee could accept such employment.

Thus, because it appears that the employee has no involvement as part of his official duties in regulating the inspectors who are members of CAAK, the employee is not prohibited from accepting for compensation the positions of treasurer and membership chairperson of the CAAK, if his appointing authority approves such outside employment pursuant to KRS 11A.040(10) which provides:

(10) 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.

(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.

c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.

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To obtain approval for his outside employment, the employee should submit an application to the Department, pursuant to 9 KAR 1:050, a copy of which is enclosed.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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

Enclosure: 9 KAR 1:050

[www.state.ky.us/agencies/ethics/ETHICS.HTM](http://www.state.ky.us/agencies/ethics/ETHICS.HTM)

May 9, 2000

Hon. Judith G. Walden  
General Counsel  
Department of Housing, Buildings and Construction  
1047 U. S. Highway 127 S, Bay 1  
Frankfort, Kentucky 40601

***Reference: 042800.6***

Dear Ms. Walden:

At its April 28, 2000, meeting, the Executive Branch Ethics Commission took up your request, dated March 2, 2000, in which you ask whether a Department of Housing, Buildings and Construction employee may serve on and be compensated for his service on the Code Administrators Association of Kentucky Board.

The enclosed Advisory Opinion 00 – 25 is issued in response to your inquiry.

Sincerely,

Jill LeMaster, Executive Director

Enclosure: Advisory Opinion 00 – 25.