

ADVISORY OPINION 00-48
August 18, 2000

RE: May spouse of Cabinet for Families and Children (CFC) employee provide training for CFC staff?

DECISION: Yes, within limitations.

This opinion is in response to your July 21, 2000, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the August 18, 2000, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. A Service Region Administrator (SRA) of the Department for Community Based Services of the Cabinet for Families and Children (CFC) asks whether it would be a violation of the Executive Branch Code of Ethics for the SRA's spouse, on behalf of the local chamber of commerce, to provide leadership training to CFC staff of the service region, with the only payment being a \$99 per participant franchise fee which will be paid by CFC to the company which developed the training package.

The SRA's spouse is the only person in the state of Kentucky who is certified facilitator of this training which is called "Gold of the Desert Kings" and published by Eagle's Flight of Guelph, Ontario, Canada. Once an individual becomes a certified facilitator, there is a \$99 franchise fee that must be paid to Eagle's Flight for each participant attending the training. The training is being offered to CFC staff without any type of compensation either directly or indirectly going to the Chamber of Commerce or to the facilitator who is the SRA's spouse. All it will cost CFC is the per participant \$99 franchise fee which goes directly from CFC to Eagle's Flight.

The SRA does assist her spouse in a supportive role in the training presentation. The waiver of the fee normally charged by the Chamber is based not only upon the local county office of the CFC being a member of the Chamber, but also because of the large number of CFC employees who will attend and because SRA will assist her husband with the presentation. The Chamber also gives price breaks to other members of its organization for the training.

KRS 11A.020 (1) provides:

- (1) No public servant, by himself or through others, shall knowingly:
 - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
 - (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or
 - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

Although the Commission believes that the SRA's spouse conducting leadership training for CFC staff may be an appearance of a conflict of interest, the Commission does not believe that there will be an actual conflict of interest with the SFC's spouse conducting the training for CFC staff. The Commission believes that since the SRA, her spouse, and the Chamber will not receive any compensation, there is no actual conflict of interest in derogation of the public interest at large.

However, if the Chamber or members of its organizations are doing business with or are regulated by the CFC, then the CFC should pay the Chamber the same amount for the training for which other members of its organization pay. If the Chamber were to waive its fee for CFC, this would be a violation of KRS 11A.045 which

prohibits public servants from accepting gifts greater than \$25 from a business that does business with or is regulated by the agency in which the public servant is employed.

Furthermore, to further avoid even the appearance of a conflict of interest the SFC should not assist her spouse with the presentation.