

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 00-50
August 18, 2000

AMENDS ADVISORY OPINION 00-32

RE: May employees of the Department of Housing, Buildings and Construction assist in the development of building codes which may be adopted by the Department?

DECISION: Yes, provided employees are involved in all organizations developing the codes and do not favor one organization over another.

This opinion is in response to your August 4, 2000, request for a reconsideration of Advisory Opinion 00-32 issued by the Executive Branch Ethics Commission (the "Commission") on June 23, 2000. 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. Employees of the Division of Building Codes Enforcement (the "Division") within the Department of Housing, Buildings and Construction (the "Department") are involved, through committees of private organizations such as the National Fire Protection Association and the Building Officials and Code Administrators, in activities relating to the development of mechanical, electrical, and general building codes and other standards that are adopted by reference within those codes. However, no employees currently serve as chairpersons as of those committees. The Department believes that such involvement is necessary for the development of code amendments.

The Kentucky Board of Housing, Buildings and Construction selects the building codes relating to new construction. The Commissioner of the Department selects the fire code that deals with existing buildings and maintenance of newly constructed buildings. The Director of the Division is responsible for recommending to the Board and the Commissioner which codes to adopt to use as reference by the Department. Neither the Department, nor any of its employees have anything to gain by recommending one code group over another. However, once the state adopts a code as mandatory, the organization that develops that specific code books benefits from the sale of books.

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 00-50

August 18, 2000

Page Two

You believe that because the employees of the Division are equally involved in various code developing organizations, and not one in particular, that no actual or perceived conflicts of interest exists. Based on these additional facts, you ask for a reconsideration of Advisory Opinion 00-32, issued July 23, 2000.

The Commission agrees that, provided there is equal participation by Division employees in the organizations developing the building and fire codes, an apparent conflict of interest will not exist for employees involved in such organizations. However, the Commission recommends that employees not serve in leadership positions in such organizations

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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