

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 00-74

December 15, 2000

RE: Reconsideration of Advisory Opinion 00-59

DECISION: Uphold original opinion

This opinion is in response to your December 4, 2000, request for a reconsideration of Advisory Opinion 00-59. This matter was reviewed at the December 15, 2000, meeting of the Executive Branch Ethics Commission (the "Commission") and the following opinion is issued.

You provide additional information as follows. You believe the original opinion rests upon faulty assumptions regarding the facts and applicable law. The opinion rests upon the premise that members of the Kentucky Association of School Administrators ("KASA") are "regulated by the Department [of Education]", which you believe is clearly erroneous. You state that KASA members are certified employees of local school districts and as such, the issuance, maintenance and revocation of their professional credentials falls within the jurisdiction of the Education Professional Standards Board ("EPSB"), rather than the Department of Education. Additionally, you state that the authority to remove members of KASA from their official positions rests with either the local superintendent or the local school board, or is based upon recommendation of the chief state school officer to the Kentucky Board of Education.

The Commission does not disagree that the members of KASA are regulated by the EPSB. However, the Commission asserts that members of KASA, and the schools or school districts that the members represent, also are regulated by, may be seeking grants from, and may be seeking to influence actions of, the Department of Education in many other areas. For instance, the Department of Education provides funding in the form of grants to local school districts, it oversees pupil transportation of local school districts, and it reviews results of testing at local schools for assessment and accountability. Principals and superintendents, who are members of KASA, are ultimately responsible for these matters within their local school or schools. Thus, the Commission believes that the Department of Education regulates, awards grants to, and may be making decisions on matters affecting the majority of the members of KASA.

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Although, the director may not be involved, as part of her official duties, in matters affecting members of KASA, the law prohibits her from accepting travel expense reimbursement from KASA if the Department regulates, awards grants to, or is involved in making decisions on matters regarding members of KASA.

Therefore, the Commission upholds the original Advisory Opinion 00-59 issued addressing the request.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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

