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BOYCE A. CROCKER

**ADVISORY OPINION 01-22**

June 22, 2001

RE: May employee serve on board of trustees of private college?

DECISION: Yes.

This opinion is in response to your May 29, 2001, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 22, 2001, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. An employee of the Kentucky Council on Postsecondary Education (the "Council") has been asked to serve on the Board of Trustees (the governing body) of Kentucky Wesleyan College in Owensboro, Kentucky. Kentucky Wesleyan College is a private, baccalaureate-degree, nonprofit postsecondary education institution licensed by the Council pursuant to KRS 164.945 through 164.947. The employee does not participate in the licensing function of the Council.

The employee serves as an Associate Vice President for Adult Education at the Council; the Council is responsible for policy coordination for adult education programs in Kentucky pursuant to Senate Bill 1 (2000 Regular Session). Additionally, the employee serves in a dual capacity as Commissioner for the Department for Adult Education and Literacy (the "Department") in the Workforce Development Cabinet. The Department administers adult education programs, federal and state. In the employee's dual roles, the employee has the authority to distribute adult education funds to adult education providers. Kentucky Wesleyan College does not participate in any adult education programs, whether sponsored by the Department or the Council. The employee understands that, as a board member, any participation by Kentucky Wesleyan College in adult education and literacy activities sponsored by the Department or the Council would present a clear conflict of interest.

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You ask whether it is permissible for an employee of the Council and the Department to serve on the Board of Trustees for a private, nonprofit postsecondary educational institution licensed by the Council where the employee does not participate in the licensing function and where the institution does not participate in the programs under the employee's supervision.

KRS 11A.020(1)(a) 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;

The Commission believes that, provided Kentucky Wesleyan College does not participate in adult education programs under the employee's supervision and provided neither the employee, nor anyone under the employee's supervision, is involved in the licensing of Kentucky Wesleyan College, the employee may serve on the Board of Trustees for Kentucky Wesleyan College. If Kentucky Wesleyan College becomes involved in adult education programs sponsored by the Department or the Council, and then the employee should resign from the Board of Trustees for Kentucky Wesleyan College. Additionally, the Commission believes that the employee should abstain from any matters before the Board of Trustees involving the Council or the Department.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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