

ADVISORY OPINION 01-27

August 10, 2001

RE: May legislative coordinator serve as student member on the Council on Postsecondary Education?

DECISION: Yes, if not required to register as a lobbyist.

This opinion is in response to your June 21, 2001, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the August 10, 2001, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The legislative coordinator (a student) for a student government association at a Kentucky public university wishes to serve as the voting student representative on the Kentucky Council on Postsecondary Education (the "Council"). The legislative coordinator is the chief lobbyist (though unregistered) for the university student body, and he receives a modest stipend for such services. His duties involve such activities as keeping the student body abreast of issues related to postsecondary education and conducting voter registration drives.

You also note that the Council approves all public university budget requests that go before the General Assembly.

You ask: *Would it be inappropriate for a legislative coordinator for a student government association in a Kentucky public university to also serve as the voting student representative on the Kentucky Council on Postsecondary Education?*

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The Executive Branch Code of Ethics (the "Code"), at KRS 11A.201(8) provides:

(a) "Executive agency lobbyist" means any person engaged to influence executive agency decisions or to conduct executive agency lobbying activity as one (1) of his main purposes on a substantial basis.

(b) "Executive agency lobbyist" does not include an elected or appointed officer or employee of a federal or state agency, state college, state university, or political subdivision who attempts to influence or affect executive agency decisions in his fiduciary capacity as a representative of his agency, college, university, or political subdivision;

In Advisory Opinion 94-11 (a copy of which is enclosed), the Commission concluded that "volunteer" lobbyists for an association must register with the Commission if they are compensated by their employers. Additionally, in Advisory Opinion 93-39 (a copy of which is enclosed), the Commission stated that a public servant who is also registered as a lobbyist creates a conflict of interest.

The Commission wishes to point out that as a voting member of the Council the student representative is considered a public servant subject to the Executive Branch Code of Ethics

However, based on the information you have provided to the Commission, it does not appear that the student representative's duties for the student government association involve attempts to influence executive agency decisions or legislation, and thus it does not appear that he would be required to register as a lobbyist. Thus, provided he is not "engaged" in such lobbying activity, the Commission believes that he may serve as the voting student representative on the Council.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Cynthia Stone, J.D.

Enclosures: Advisory Opinion 94-11
Advisory Opinion 93-39