

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 01-28
August 10, 2001

This number voided.

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RE: May a state agency allow private entities to “co-sponsor” a program the agency is promoting?

DECISION: No.

request withdrawn,
number voided

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RE: May a state agency allow private entities to “co-sponsor” a program the agency is promoting?

DECISION: No.

This opinion is in response to your June 19, 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. Kentucky’s Affordable Prepaid Tuition (“KAPT”) plan administered by the Office of the State Treasurer (“Treasury”) is scheduled to launch in October. In preparation of the statewide advertising campaign for KAPT, Treasury hopes to solicit corporate sponsors to assist in outreach in order to stretch marketing dollars. Several other states with prepaid tuition programs obtain corporate sponsors also. In return for corporate donations to marketing efforts, other states recognize the corporations in some manner, such as offering a link (with an endorsement disclaimer) on their web sites, mentioning the corporation in advertising, or offering honorary status for the CEO on the state boards.

You ask: *What are the limits of this kind of reciprocation when it comes to state government? Are we allowed to “co-sponsor” ads with corporations? May we provide links to corporate web sites on our own homepage? May we give donors gifts such as plaques, honorary recognition, newspaper, and television plugs? Where do we draw the line?*

Additionally, you ask: *May KAPT place its logo on materials distributed by private companies who agree to do so pro bono, a la what the Governor has seemed to have effectively done with the “Education Pays” slogan?*

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The Commission believes that Treasury is not prohibited from soliciting corporate donations for its KAPT program, provided the corporations solicited have no business or regulatory relationship with the Treasury and provided they are not lobbying or seeking to influence matters of Treasury. However, in several previously issued advisory opinions, the Commission recommended that state agencies should take great care not to imply that they are endorsing or promoting a specific product or company. Consequently, the Commission believes Treasury should not co-sponsor ads with corporations or provide links to corporate web sites on Treasury's homepage. Although the Commission believes that Treasury may give a plaque to a corporation in recognition of its donation, Treasury should not publicly recognize the company in the newspaper or in television plugs. Such co-sponsorship or public recognition by Treasury may tend to reflect endorsement or promotion of a specific company. The Commission believes that, in order to uphold public trust, Treasury should not endorse or promote such companies.

Regarding your second question, in Advisory Opinion 00-18 (a copy of which is enclosed), the Commission stated that the Kentucky State Police ("KSP") should take great care not to imply that it was endorsing or promoting a specific product or company and thus it should not allow its insignia to be used by a private auto maker for promotional purposes. Similarly, it appears that Treasury should not allow private companies to place the KAPT logo on distributed material for promotional purposes. Such action may appear to the public that Treasury is endorsing or promoting the company or its products. The Commission does believe, however, that if materials distributed by the private companies are merely brochures advertising KAPT, and do not identify the private company other than to state 'printed by' and the company's name, then such use of the logo is acceptable.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Cynthia Stone, J.D.

Enclosure: Advisory Opinion 00-18