

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 02-12**  
March 22, 2002

RE: May the Kentucky Law Enforcement Memorial Foundation, the membership of which is comprised of many state employees, allow businesses to sponsor a golf scramble?

DECISION: Yes, with a proviso.

This opinion is in response to your February 3, 2002, request for an opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the March 22, 2002, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are employed by the Department of Criminal Justice Training (the "DOCJT"), a state agency under the Justice Cabinet. You are also President of the Kentucky Law Enforcement Memorial Foundation (the "Foundation"), a non-profit foundation organized to memorialize fallen officers and provide a fund for the families of fallen officers. The Commission has previously held in Advisory Opinion 99-36 that so long as DOCJT employees did not solicit persons or entities that do business with DOCJT, employees could solicit funding for the Foundation.

The Foundation is planning a fund raising golf scramble. Taking into account the Commission's holding in Advisory Opinion 99-36, you ask the following: Is it permissible to allow businesses to sponsor portions of the scramble, receive recognition for their sponsorship, and donate "give-aways" such as food and golf items?

KRS 11A.020(1) holds:

- (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;
  - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
  - (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or
  - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

In Advisory Opinion 99-2, the Commission held that businesses and non-profit entities regulated by a state agency could assist in funding for public meetings to promote a mutual

initiative co-sponsored by the state agency and the business/non-profit. However, the opinion also advised the state agency not to solicit any businesses or non-profit entities if the entities were regulated by or were doing business with the state agency. Your situation can be distinguished from the scenario set forth in Advisory Opinion 99-2 because the Foundation, not DOCJT is sponsoring the golf scramble, though some DOCJT employees are planning the scramble on behalf of the Foundation.

Therefore, although a conflict would arise should DOCJT employees be involved in soliciting those persons or entities that do business with DOCJT, the Foundation itself is not prohibited from accepting items for use in the golf scramble. The Foundation may allow businesses to sponsor portions of the scramble and receive recognition for such sponsorship, provided that DOCJT employees, and other state employees subject to the Executive Branch Code of Ethics (the "Code"), are not involved in such solicitation or arranging recognition of the businesses. Foundation members who are not state employees subject to KRS 11A may undertake such solicitation and recognition measures. The same analysis applies to donations of "give-away" items to the scramble. Those Foundation members who are DOCJT employees and subject to the Code may not be involved with businesses who wish to assist the Foundation in this worthy effort.

Enclosures:   Advisory Opinion 99-36  
                  Advisory Opinion 99-2