

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 03-20**

May 29, 2003

RE: May state agencies use state funds and equipment for lobbying purposes?

DECISION: Yes, if such lobbying is supportive of carrying out the statutory mission of the agency.

This opinion is issued in response to your April 2, 2003, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 29, 2003, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. It has come to your attention that a person employed by a local health department is utilizing a state-issued e-mail address to inform, recruit, solicit, and implore hundreds of persons to become actively involved in a possible smoking ban at restaurants and bars. In addition, you have discovered that the Kentucky Agency for Substance Abuse Policy ("ASAP") has issued grant money to a local health department for the purpose of supporting a smoking ban at restaurants and bars.

You ask the following:

- (1) *May a person employed by a governmental agency utilize a state-issued e-mail address for political and lobbying purposes?*
- (2) *Is the Kentucky Agency for Substance Abuse Policy authorized, under statute or regulation, to grant money for political and lobbying purposes?*

Employees of local health departments are not subject to the Executive Branch Code of Ethics ("code of ethics"), and thus the Executive Branch Ethics Commission is not authorized to provide specific ethics guidance to such individuals, including any use of the state e-mail system. However, the Commission does believe that local health departments serve as agents to carry out local health programs for the state, and employees of local health departments should comply with ethics provisions required of state employees in order to uphold the public trust in government. The ASAP is an agency within the executive branch of state government, and thus its employees are subject to the code of ethics.

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In applying your questions to agencies that are subject to the code of ethics, such as ASAP, the Commission believes that use of the e-mail system and the granting of funds by an executive branch agency are management decisions and a state agency would not be prohibited from using state funds or equipment in a manner that supports the statutory mission of the state agency, even if such action includes lobbying. See Advisory Opinions 98-6 and 99-50.

Additionally, KRS 11A.201(8)(b) provides that employees acting as representatives of their respective state agencies who attempt to influence or affect an executive agency decision are not considered executive agency lobbyists.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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BY CHAIR: Joseph B. Helm, Jr.

Enclosures: Advisory Opinion 98-6  
Advisory Opinion 99-50