

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 05-5**

February 18, 2005

RE: Guidance for Private Training by Employees

This opinion is issued by the Executive Branch Ethics Commission (the "Commission") upon its on motion. This matter was reviewed at the February 18, 2005 meeting of the Commission and the following opinion is issued.

Questions have arisen concerning employees in the Department of Education (the "Department") who provide training on education-related topics for other states. Certain education programs that Kentucky administers are viewed as model education programs by other states. Because of this, officials in the Department are contacted to provide assistance and training sessions to education departments of other states.

However, because management does not believe that it is a part of an employee's official duty to provide training for other states, it has allowed employees to take leave time and present training sessions for other states on the employees' "own" time.

Management also previously has allowed employees to use research and material produced by the Department in their private training sessions, provided such information is freely available to the public or readily distributed by the Department upon request from the other states.

KRS 11A.020(1)(a) and (d) provide:

(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;

...

EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 05-5  
February 18, 2005  
Page Two

(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.

Although it does not appear that providing training sessions for other states by employees, on their own time, presents a conflict with the employees' official positions, the Commission cautions such employees to make a clear distinction between their official positions and their private training interests. Specifically, the employees should not use state time, equipment, or materials to provide such services. They should not conduct business, such as setting up engagements with other states, during their workday for the state, nor should they use their official positions to refer customers to themselves privately. Such referrals may be viewed as using one's official position to secure a private advantage. See Advisory Opinions 00-1 and 03-18, enclosed.

The Commission acknowledges that employees in the Department also may be asked to speak at conferences or seminars, as part of their official duties, which may provide them with contacts from other states. However, while attending or speaking at conferences and seminars employees should not solicit private business while in the performance of their official duties. See Advisory Opinion 95-39, enclosed. Contacts for their private businesses should be made after workday hours, on an employee's own time.

If a clear distinction is not made between an employee's official position and his private interests, he may be in violation of using his official position to give himself an advantage in violation of KRS 11A.020(1) (d).

Sincerely,

**EXECUTIVE BRANCH ETHICS COMMISSION**

---

**BY CHAIR:** James S. Willhite

Enclosures:    Advisory Opinion    00-1  
                  Advisory Opinion    03-18  
                  Advisory Opinion    95-39