

Executive Branch Ethics Commission

**ADVISORY OPINION 07-8**

May 10, 2007

**RE:** Guidance on Employee Time and Attendance

This opinion is issued by the Executive Branch Ethics Commission (the "Commission") upon its own motion. This matter was reviewed at the May 10, 2007 meeting of the Commission and the following opinion is issued.

As a result of the conduct of several recent investigations, the Commission wishes to provide guidance to executive branch employees regarding time and attendance in the performance of their job duties.

The Commission points out that the Commonwealth of Kentucky Employee Handbook, found on the Personnel Cabinet's website, provides:

*State employees are expected to be at work on time. A full-time employee shall be required to work 37 1/2 hours per week (some employees regularly work 40 hours a week) unless specified otherwise by the Appointing Authority or the Statutes. The typical workweek runs Monday through Friday, 8:00 a.m. till 4:30 p.m., with time off each day for lunch. (KRS 337.355). You are also entitled to rest breaks, according to KRS 337.365.*

*Agency managers have discretion in deciding what work hours best meet the needs of particular work places. If you work in a state hospital or correctional facility, for example, you may work a different shift than your office counterparts. Your lunch period may be less than an hour if it is necessary for staff to rotate to provide continuous coverage. In some units, employees must all take their rest breaks at the same time; in others, the work demands a staggered schedule. These are agency management decisions, so long as the agency complies with applicable laws.*

*Another area of discretion is flex-time scheduling. An agency may offer some or all of its employees the opportunity to design their own work schedules. Usually, agencies operating under flex-time require that their employees work certain "core" hours during each day to ensure that there is a steady flow of work during the peak hours when services are most needed.*

**EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 07-8**

May 10, 2007

Page Two

Although the Commission believes the proper use of state time and attendance by employees is a management decision as stated above, it also believes pursuant to previously issued advisory opinions (copies of which are enclosed) that if a public servant flagrantly misuses his work time and attendance for personal use, that such action could rise to the level of violating the provisions of KRS 11A.020(1) (c) and (d) below:

- (1) No public servant, by himself or through others, shall knowingly:
  - (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.

KRS 11A.005(1) provides that “it is the public policy of this Commonwealth that a public servant work for the benefit of the people of the Commonwealth.” Excessive misuse of state time by public servants on a continual basis, such as not completing the required 37.5 or 40 hours of work required per week, creates privileges and preferred treatment for employees in derogation of the public interest at large. Public servants who egregiously abuse the time for which they are being compensated by taxpayers are using their official positions to give themselves an advantage and a financial gain disregarding the public interest.

Further, the Commission believes that employees have a duty to accurately record their time worked and leave time submitted to their agencies on their official timesheets. All compensatory time worked, as well as taken as leave time, should be properly reflected on employees’ timesheets on the days worked and/or taken as leave time. Employees should **never** keep an “additional set” of time records to reflect their actual time worked that does not agree with the actual time records submitted on their timesheets to their agencies. Agency timesheets should always accurately reflect the actual days and hours that a public servant worked.

Sincerely,

**EXECUTIVE BRANCH ETHICS COMMISSION**

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By Vice Chair: Cynthia C. Stone

Enclosures: Advisory Opinion 98-15  
Advisory Opinion 98-21