

Executive Branch Ethics Commission  
**ADVISORY OPINION 07-9**  
May 10, 2007

**RE:** Does family relationship create conflict of interest for university employee?

**DECISION:** University employees are not subject to the Executive Branch Code of Ethics.

This opinion is issued in response to your March 13, 2007 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 10, 2007 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. You are employed by Murray State University ("Murray"), which operates a program of statewide network for the development of entrepreneurial business start-ups that is funded by the Department of Commercialization and Innovation (the "Department") within the Cabinet for Economic Development. The Department has contracted with the Kentucky Science and Technology Council ("KSTC"), a non-profit corporation, to manage the granting of the funds for the program. KSTC receives the funds from the Department and passes funding for operation of the program to Murray. A pool of funding in the form of grants and loans is available to clients of the program. The program helps those clients develop business plans, secure patents, do feasibility studies, secure venture capital, and prepare applications, plans and other necessary services to submit to KSTC or the Department for funding.

Murray contracts with KSTC to administer the program for 20 counties in western Kentucky. You are working in the program with a client who has intellectual capital to develop a business, and have introduced him to a company in Nashville, which is interested in investing in his idea. One of the partners of the Nashville business is a cousin of one of the regional directors of the program. However, no one investor will have a majority control in the new business as other venture capital parties are participating as well.

**EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 07-9**

May 10, 2007

Page Two

You ask whether the fact that a regional director, who is an employee of the program, and who is a cousin to a potential investor in a new business being developed through the program creates a conflict of interest. You state that the regional director and his cousin have no business connection of any kind. Further, you state that neither the regional director, nor anyone in your office, has any vote or authority to approve funding for the new business developments. You have discussed this matter with the General Counsel of the Council for Postsecondary Education and he has advised the following:

- 1) Not to allow the regional director to represent the business before KSTC;
- 2) Disclose in the application the relationship between the investor and the regional director; and
- 3) Have someone in a position higher than the regional director represent the program before KSTC.

Although you are in agreement with his advice, you wish to have an opinion from the Commission before you make application to KSTC for funding for the new business venture.

The Executive Branch Code of Ethics, found in KRS Chapter 11A, is applicable to all public servants employed by agencies within the executive branch. In Advisory Opinion 95-4, the Commission opined that all agencies included in the Legislative Research Commission's Information Bulletin No. 171, *The Executive Branch of Kentucky State Government*, provided an authoritative source of agencies within the executive branch of state government. Although this source no longer is periodically updated by the Legislative Research Commission as reorganizations occur and the Commission is using another authoritative source of agencies, state colleges and universities that have never been included in this publication. Consequently, the Commission does not believe that employees of state colleges and universities are subject to the Executive Branch Code of Ethics, although they may be subject to ethics codes applicable to their particular college or university.

Further, even though the Department grants funding through KSTC to Murray for the operation of the program to develop new entrepreneurial businesses, employees of Murray who administer this program are not considered executive branch employees of the Department subject to the Executive Branch Code of Ethics, but are only employees of Murray. Thus, the Commission has no jurisdiction over the ethical behavior of the regional director and whether his cousin who is a potential investor in a new business being developed through the program creates a conflict of interest pursuant to KRS Chapter 11A.

**EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 07-9**

May 10, 2007

Page Three

With that said however, the Commission did review the advice provided to you by the General Counsel of the Council for Postsecondary Education regarding this matter, and concurs that such advice will serve to remove any actual conflicts from the situation. Further, the Commission advises that you review any ethics code or policies that Murray may have guiding such action.

Sincerely,

**EXECUTIVE BRANCH ETHICS COMMISSION**

---

By Vice Chair: Cynthia C. Stone