

Executive Branch Ethics Commission  
**ADVISORY OPINION 08-22**  
July 11, 2008

**RE:** Is it a conflict of interest for a member of the Kentucky Real Estate Commission to own a real estate school?

**DECISION:** Yes, such an interest must be publicly disclosed under the provisions of Executive Order 2008-454 and abstain from decisions concerning his or her interests.

We are in receipt of your e-mail regarding a member of the Kentucky Real Estate Commission's ("KREC") ownership of a "real estate school" and whether any conflict exists for that member when voting on school related/course issues.

As you are aware, the Governor entered Executive Order 2008-454 on May 27, 2008, which details ethics considerations for Boards and Commissions not otherwise covered by KRS Chapter 11A. The Executive Order provides the following:

"7. A state policy-making or regulatory board or commission member shall disclose to the other members of the board, commission, authority, council or committee of which he or she is a member, any direct or indirect interest in any undertaking that puts the member's personal interest in conflict with that of the agency. This disclosure shall be made in writing and shall be recorded in the minutes of a formal meeting. A member who is required to publicly disclose a direct or indirect interest shall abstain from all decisions concerning his or her interest if the decision should affect him or her as a member of a business, profession, occupation, or group in a manner different from other members of the business, profession occupation or group."

The mission of the Kentucky Real Estate Commission is stated on the agency's website as follows "to regulate state licensing and education of real estate brokers and sales associates and to protect the public interest." Certainly, this statement indicates that a significant portion of the Commission's regulatory responsibility involves the education of those it regulates. In addition, the Commission's administrative regulation 201 KAR 11:170 provides that a real estate school needs to be certified by the Commission.

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The Commission believes ownership of a real estate school is a direct conflict under the Executive Order for a Board member of the KREC. Accordingly, such a conflict requires disclosure of the Board members direct interest in writing or recorded in the minutes of a formal meeting. The Executive Order further requires any member who is publicly required to disclose an interest to abstain from all decisions concerning his or her interest, which, in the situation you describe would include at a minimum, "school related/course issues."

Sincerely,

**EXECUTIVE BRANCH ETHICS COMMISSION**

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By Chair: John A. Webb

Enclosure: Executive Order 2008 – 454

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