

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 08-24

September 26, 2008

RE: Can employees of the Kentucky Department of Parks perform duties and requested tasks for the Kentucky State Park Foundation on state time and utilizing state resources?

DECISION: Yes, unless utilization of employee's time and state resources becomes abusive or interferes with the employee's regular duties.

This opinion is issued in response to your August 18, 2008, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September, 26, 2008, meeting of the Commission and the following opinion is issued.

The Kentucky State Park Foundation is a private, 501(c)(3) non-profit organization whose mission is to advocate for the Kentucky State Parks and Historic Sites and to connect people to the natural, historical and cultural resources of the Kentucky State Park system.

The Foundation has requested that employees of the Kentucky Department of Parks perform certain duties for it including, but not limited to, brochure design, recording meeting minutes, mailings and postage and other secretarial type functions. It appears that the Foundation is requesting that state employees perform these services on a continuing basis instead of requesting occasional assistance with Foundation tasks. The Foundation does not employ individuals to perform these tasks, although under its bylaws it could employ individuals for such a purpose. When state employees are used, the Foundation does not compensate the employees or the agency in any way for their performance of these functions. The Commissioner of the Department of Parks, who serves on the Foundation Board as an ex-officio member, is responsible for directing or approving the employees to perform such tasks for the Foundation.

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In numerous advisory opinions, the Commission has dealt with the proper use of state time and resources. In Advisory Opinion 98-15 we held that it was a management decision whether to allow state employees to use state time and resources to give a baby shower for a co-worker. We cautioned management and the employees in that opinion not to misuse state time or equipment, since misuse could constitute a violation of KRS 11A.020(1)(d). In Advisory Opinion 98-6 we found that the proper use of electronic mail was an agency management decision, and in Advisory Opinion 03-30 we found that agency management should be responsible for determining whether service by an employee on a state Board constitutes a proper use of an employee's time.

Those opinions hold for the most part that the decisions regarding proper use of state time and resources should be left to management's discretion provided state time and equipment are not misused. We believe that to be the appropriate result in this case because part of the Kentucky State Park Foundation's mission ultimately benefits the Kentucky State Park system. Thus, agency management should decide the proper use of state time by an employee and the limit to which state resources may be committed to Foundation purposes. Conversely, should the requirements of the Foundation be such that an employee hired to perform tasks for the agency is unable to complete his or her regular job duties, or should use of state employees and state resources become continuous and ongoing, it is management's responsibility to insure that limits are observed and abuses do not occur.

The Commission's decision herein is limited to the facts presented and premised upon the fact that this case involves a non-profit entity, the mission of which benefits the agency. The Commission's jurisdiction extends only to the implications of the conduct presented under KRS Chapter 11A. This decision should not be interpreted as addressing any implications of the conduct presented under KRS Chapter 18A.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: Gwen R. Pinson

Enc. Advisory Opinion 98-6
Advisory Opinion 98-15
Advisory Opinion 03-30

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