

Executive Branch Ethics Commission
ADVISORY OPINION 08-6
May 9, 2008

RE: May employee accept scholarship if donators to scholarship fund are not doing business with the employee's state agency?

DECISION: Yes.

This opinion is issued in response to your March 12, 2008 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 9, 2008 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. You are employed by the Kentucky Transportation Cabinet as a Chief District Engineer, and also are pursuing a Ph.D from the University of Kentucky College Of Engineering (the "University"). The University offers tuition scholarships to practicing engineers who are pursuing Ph.D degrees in Civil Engineering as an incentive program to expand the Ph.D program and reach out to the professional community. The funding for this program is made available through various endowment accounts, some of which are donations to the University from contractors, design consultants, and engineering firms.

You ask whether you may accept tuition support through the University from scholarships funded by firms or design consultants if such firms and design consultants are not doing business with the Transportation Cabinet. You state that you have no knowledge of and involvement as part of your official duties in any matters involving the University.

KRS 11A.045(1) provides:

- (1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing

**EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 08-6**

May 9, 2008

Page Two

contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

As stated in previously issued advisory opinions, a state college or university is not considered to be a person or business as defined in KRS Chapter 11A. Thus, you are not prohibited from accepting a gift in the form of a scholarship from the University, or any endowment account that it administers provided the University is making the selection as to who receives the funds, rather than the donators to the endowment account. If you want to avoid even the appearance of impropriety, you also should avoid accepting funds from any endowment account that is funded by contractors, engineering firms or design consultants that do business with the Transportation Cabinet. Further, you should not accept scholarships funds directly from contractors, engineering firms or design consultants that do business with the Transportation Cabinet.

The Commission believes that you also may accept scholarships, however, from contractors, engineering firms or design consultants provided such persons or businesses are not doing business with, or seeking to influence, the Transportation Cabinet.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: John A. Webb