

Executive Branch Ethics Commission

**ADVISORY OPINION 09-31**

November 13, 2009

**RE:** May the Director of Research and Statistics in the Office of Employment and Training, Workforce Development Cabinet, receive an honorarium and travel expenses for making presentations to out of state agencies on his own time?

**DECISION:** Yes, so long as you make a clear distinction between your official position and your private interest.

This opinion is issued in response to your October 30, 2009 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). The matter was reviewed by the Commission on November 13, 2009 and the following opinion is issued.

Since October 1, 2009, you have served as the Director of Research and Statistics in the Office of Employment and Training in the Education and Workforce Development Cabinet ("OET"). Your official duties include providing oversight and developing reports of Kentucky labor market information such as unemployment statistics, occupational employment statistics, mass layoff statistics, workforce information core products and services, and local employment dynamics. You also provide oversight and develop reports related to Kentucky employment and wage data and current Kentucky employment statistics. You give presentations on behalf of OET to in-state citizen organizations, non-profit organizations, government agencies, and business organizations concerning historical data, current data and future trends in Kentucky.

Prior to becoming employed by OET, you have made presentations in the past ten (10) years to out of state agencies and organizations in thirty-four (34) states consisting of government leadership summits, regional government agencies, national organizations serving government agencies, and international government agencies. You ask whether you may continue to provide such presentations on your own time, and receive an honorarium and travel expenses for the speaking engagements. The out of state presentations will consist of speaking on demographic, social, educational, workforce and economic data and trends for the respective geographic area. The data for the out of state presentations will be developed on your own time and without the use or reliance upon any OET data or information. Such presentations are unrelated to your official duties for OET.

KRS 11A.020(1)(a) and (d) provide:

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

(a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest or his duties in the public interest;

...

(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.040(5) provides:

(5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the approval of the Commission.

It does not appear that the proposed speaking engagements in other states, on your own time, present a conflict with your official position. However, the Commission cautions you to make a clear distinction between your official position and your private interest of speaking to agencies and groups in other states. You should not use your official title or position in order to obtain, or to assist you in obtaining, these private speaking engagements. Further, you should not use state time, equipment, or materials to prepare for the speaking engagements; and you should not conduct business, such as setting up the engagements with other states, while on state time. Additionally, you should not use confidential data accessible to you in your official position that is not available to the public in your out of state presentations.

Applying KRS 11A.040(5) to your specific situation, you may accept an honorarium and travel expenses related to out of state speaking engagements as long as the presentations are not part of your official duties and if done on your own time.

Sincerely,

**EXECUTIVE BRANCH ETHICS COMMISSION**

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By Chair: Gwen R. Pinson

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