

EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 94 - 38

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June 16, 1994

RE: May constitutional officeholder use title or official stationery for endorsement or solicitation on behalf of non-profit organizations?

DECISION: Yes, title may be used, but should not use official stationery, and the official's state agency must not do business with or regulate the non-profit agency.

This opinion is in response to your May 16, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 16, 1994, meeting of the Commission, and the following opinion is issued.

You request an opinion on the following:

1. May an executive official use official stationery to write a solicitation letter to private donors on behalf of a non-profit group that does no business and has no affiliation with the state? For example: United Way.

2. May an officeholder use his or her official title on his or her personal stationery for the same purpose?

3. May an officeholder write a letter of endorsement on behalf of a private Kentucky education facility seeking grants from national foundations? For example: The David School.

KRS 11A.020(1)(d) provides:

Public servant prohibited from certain conduct -- Disclosure of personal or private interest.

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

...

(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.

In addition, the Commonwealth of Kentucky *Employee Handbook* provides the following concerning the use of state materials:

*When state materials and equipment are put to personal use, they must be replaced sooner, causing drain on agency funds. Honest, ethical employees, nevertheless, often use state copy machines, stationery, pens and pencils, typewriters, and other state property as if they were their own private property, never considering that the combined cost of all employees' using state materials and equipment for personal use may run into millions of dollars yearly.*

...

*The conscientious employee will take care to make distinctions between what materials are for state work and what is his own personal property.*

Although there is no direct prohibition in KRS Chapter 11A concerning the use of state materials when soliciting for a non-profit organization such as the United Way, the Commission believes, based on the provisions in the *Employee Handbook*, executive branch officials should not use state materials for non-state purposes. An executive official is not prohibited from using his official title on his own personal stationery when soliciting for non-profit organizations from entities that do no business with and are not regulated by any state agency which the official supervises. The Commission does not believe using your official title to solicit such donations is using your official position to create advantages for yourself or others in derogation of the public interest.

An executive official may write a letter of endorsement on behalf of a private Kentucky educational facility seeking grants from a national foundation as long as the letter is from the official, personally, and not represented as from the state agency. In addition, the official's state agency must not do business with or regulate the national foundation.